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# POLITICAL SCIENCE QUARTERLY

## NOTES ON A THEORY OF ADVICE

THIS tentative and fragmentary analysis of advice is offered to indicate what might be worked out as the basis of a guide for the scholars, scientists and experts who move into the world of affairs on invitation. By reason of training and intellectual habit, they are capable of seeing clearly the abstract or schematic picture of what goes on and should be helped to do so. They should be able, if called on, to describe the behavior of policy makers, and their assistants, to the policy makers themselves, since administrators are not often given to the self-indulgence of abstract thought. One sure mark of the man of action is to use intuitions in place of abstractions and this is true even in a society like ours, where skills are so generally explicit and " know-how " is so much discussed. The man of thought is very different; he will make a small cosmos out of the smallest experience.

The expert who accepts an invitation from a policy maker is entering a situation in which he can expect to observe the working of four or more distinguishable functions in the six or more stages of the decision-making process. We can take the functions first, understanding, of course, that one person may act at different times in different functions and that functions may occasionally be merged.

First is the making of the policy decision which we shall call the function of administration. It is final for the unit of action being examined. It includes the right, as will be explained later, to appeal to a free constituency, which is another way of saying that even the administrator who makes the final decision in any unit of action has the right and the responsibility



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of being judged by somebody. Swift remarked, "a flea hath smaller fleas that on him prey," and what was expressed as lyric annoyance is a true description of sober fact. Every decision, in any kind of organization, must please somebody who has a right to be displeased, no matter how final it may be for all subordinates. For the immediate purpose, however, we think of the policy-making decision as a terminal point in a process. The expert is called in to help eventually in giving that decision as much prescience and caution as is possible. The expert is not responsible, however, for making it; if he does, he is fulfilling the function of administration, not of advice.

The second function can be called execution. It is performed, if the unit is small, by the administrator himself; in larger organizations, there are executive assistants. It must be clearly understood that execution is here considered part of the policy-making process; it is not a merely mechanical performance in which the intentions of the policy maker are automatically realized. Execution always involves a series of subsidiary decisions which arise in carrying out the powers that have been delegated to the executive by the policy maker. Opposition, treachery, political manipulations or useful inventiveness may make or mar the policy as it is realized. The adage, "If you want something well done, do it yourself", is an admonition to an administrator not to trust his executives. The other adage, "A man who is his own lawyer has a fool for a client", may incidentally express the other side of the case. Or we might find it in the Chinese maxim of political administration which states that the good administrator does nothing; he does nothing, in order to give his executives the opportunity to do their best. This ambivalence in popular folklore shows that the decision as to how much he shall personally intervene in the execution of his own policies is one of an administrator's most sticky problems.

The third function is advice. Here the expert enters the situation; his work is almost wholly the giving of advice. How the location and content of his advice are to be determined will be discussed in connection with the stages of the decision-making sequence. At this point, while we are considering the

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functions, we can note that the function of advising is performed by all the members of an organization in some contexts and that this advice giving is almost never politically innocent. It is only the outsider, the expert who is paid primarily for his advice and listened to for his special professional knowledge, who can expect his opinions to have entirely objective standing.

If the invited expert is an academic person, whose experience of controversy has been scientific or scholarly, he is very likely to misunderstand much of what goes on around him because he thinks of proffered opinions as opinions only. He weighs them in the same scales of objective valuation he expects his own opinions to be weighed in; he tries to examine them courteously but "impersonally". By living up to the ascetic ideals of his own intellectual discipline he heightens the value of his own work, of course, but keeps himself alien to the other elements in the decision-making process. We believe that he will be more useful in performing his special function if he knows the differences between his own behavior and that of his temporary colleagues, and this analysis is a suggestion of the kind of work that ought to be done to help him.

There is also a fourth function which we can call interpretation. It is not often the job of a designated person; either an executive assistant or an expert can perform it and is likely to do so without thinking that he is widening his own special task. The function is not clearly conceived, and is assumed by different persons thoughtlessly. This partly accounts for the fact that it is in this area of what we call interpretation that experts and executives most frequently fall afoul of each other without knowing why. The unspecified function is the cause of the trouble, as can be better understood when we examine the stages in the decision-making and decision-realizing process.

The decision-action process is a series of decisions whose nature and scope must be studied if we are ever to conceptualize fully, and arrange logically, the coöperation between the elements of knowledge and power that make the world go round. What is said in these notes is at least sufficiently abstract to apply to any kind of business, whether government, industry or the management of organizations. Power hunger

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shows itself openly in government and business; it may be disguised in a church hierarchy or a philanthropic society. Whether or not ambition is less potent in the competition of service, where money and material success are less obvious stakes, is a question we need not try to answer. But we need not put a cheap Machiavellian color on the matter; we can take each group of persons at their own valuation and make no moral judgments. The factors are about as we describe them in any single situation and any one factor may be more or less present, according to pressures in the situation and the characters of the persons.

The first stage in decision-action is to describe the problem. In practice, most problems are partially formulated by the executive assistants in the regular administration of the enterprise. They note failures in the working out of previously initiated policies, report unexpected obstacles, complain of lack of tools, which may be in machines, money or personnel; or, much more rarely, they may think of possible new objectives. The active administrator, for reasons to be suggested later, is not very likely to have much time for the discovery or the invention of problems. His primary function in all aspects of his job is to choose among suggestions received from his staff and from outside; the problems come to him in that form. Much of this flow of problems in the formulations of the executives is taken care of by routine decisions. When it is too difficult for that kind of "staff meeting" treatment, the expert may be called in.

A vague realization that the problem as now described is too difficult for staff routine decision is not enough, however, to determine the choice, the rôle or the problem of the expert. In fact, there is often a period when some of the executive assistants may resist the suggestion of bringing in a consultant since they have more or less routine suggestions of their own that they want to have favorably considered. The suggestion that only an expert can solve a problem is itself a suggestion, an "idea", and is immediately subject to all the kinds of scrutiny and resistance that meet every other idea. If the administrator accepts the idea in general, he is then open to new

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suggestions and may add a few of his own, leading to such a precise description of the problem as will make it possible to decide what kind of expert to call in.

Among executive assistants there is always competition. The energy of this conflict is one of the things with which an administrator works; it is also one of the factors that complicate the life and work of the outside specialist.

If the first decision by the administrator is that a consultant of specified knowledge shall be invited into the organization for the purpose of giving advice on a problem, that decision indicates that the problem is at least partly described in the administrator's mind. If he has not seen the problem clearly, he is merely indulging, for political or personal reasons, some member of his staff who offers a suggestion. The degree to which the problem actually is described before the advisory relation is established is of the greatest importance to the expert. There may be a later phase of the situation in which the expert can perform his own function only by stating that the problem has been wrongly described and that some other formulation, or indeed some other problem as yet undisclosed, must be tackled ahead of, or instead of, the one he has been assigned to.

Before this problem can arise for any expert, however, and before one is chosen, there is a choice to be made among the suggestions from executives as to the nature of the expert knowledge needed and as to the best available exponent of that kind of knowledge. The executive assistants will act as experts on experts and on expert knowledge. From among their suggestions, or on his own, the administrator chooses a person.

After being invited, and after accepting the assignment or agreeing to negotiate, the expert adviser is given a description of the problem. The first contact between him and his employers may be the locus of profound conflict or misunderstanding. If he accepts without question the problem, and the description of the problem which is given him by the administrator or by the designated subordinate, he is bound in his function as adviser to serve all the purposes of the administrator that are implied in it, or to make a clear rejection.

The question is raised at once, What right has an adviser to

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reformulate or to change the problem? The answer is still obscure but it is evident from experience that each member of the relation between expert and executive, or expert and administrator, is likely to take it for granted that he has the privilege of naming and describing the problem. The expert, if not well trained by relevant experience in such affairs, coming probably from an academic situation in which it is the chief part of his work to rank problems in their respective importance and to formulate them for study, will try to go beyond the immediate presentation offered him to what he thinks is an understanding of ulterior policy considerations so that he can (if still willing to associate himself with those purposes) help to achieve them. The administrator and executives have much more complicated and less innocent ideas about those ulterior policy matters and may not believe that it is necessary to disclose them. They may, of course, listen watchfully to the expert's queries and suggestions regarding the nature of the "real" problem, and accept what can be used, provided it involves for them no embarrassment in their relations with each other.

Even at this early point in the process, the inexperienced adviser should begin to learn a few lessons about the competitive factors in decision making. He may overlook them or fail to see them. In fact, men of academic background can often be seen trying to act as administrators in institutional leadership for which their expert knowledge fits them, without knowing or being willing to believe that what goes on around them is in any way different from scholarly or scientific discussion. Their expert knowledge fits them to understand the problems of the institution which may be school, library, business reseach department, or government bureau. They may have had an extensive knowledge of men in intellectual rather than power competitions. They may have a good second-hand knowledge of practical affairs from reading and acquaintance. They may even have detected rudimentary power impulses in some of their academic colleagues, especially as manifested in malicious gossip. But they feel shamed by the suspicion that men of affairs are not always wholly objective in what they say,

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as if, indeed, the morals of the seminar and the laboratory were the only morals extant.

The fact is, observable and inescapable, whatever moral judgment one may insist on passing on it, that the decision-making process is a field of personal ambition and sharp competition in all practical situations, whether business, government or institutional. It might be argued that this is necessary and useful, that a scientific objectivity in the expression of opinions, the interpretation of facts, and the communication of ideas, among practical men would lead to worse, not better, results. We are not prepared to argue in that fashion any more than we are prepared to be shocked. The analyst has no moral obligation beyond stating the ascertainable facts in such a way as will be useful to other men of knowledge who mix in action and hope to serve a good purpose.

The administrator and his executives, generally through one person as a delegated intermediary, interpret to the expert a complex of administrative judgments as to the nature of the problem. The expert, after agreement as to the nature, or locus and formulation, of the problem, does his work by suggesting alternative courses of action and predicting the consequences to be expected from them. He is giving new dimensions of freedom to the thinking of the administrative group because he is describing for them, and enabling them to entertain in their imaginations, a range of choices they would not otherwise have considered.

It is evident that prediction of the consequences of a set of alternatives is a very difficult task which should always be performed with caution. The records would seem to indicate that the gifted man of action prefers to initiate a maneuver and invent most of his planning as he goes. This has a number of psychological implications into which we cannot go at this point, related to the fact that men of action generally maintain their own morale by frequent rearrangement of goals so that neither defeat nor victory can be too demoralizing. But when the expert, by definition not a man of action and therefore assumed to be more concrete in his expectations, is asked to describe alternative choices, he is expected also to tell the ad-

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vantages and disadvantages of each choice. This is the same as asking him to predict, in spite of unpredictable circumstance, what will happen in any course of action. He is lucky if he can present plans in such a way as to indicate that future events will make new choices necessary, and the road ahead is full of forks, each of which must be negotiated in the light of experience which cannot even be imagined until after arrival at that particular fork. He is not lucky if the administrator demands of him an absolute map of the future; some administrators think they are entitled to that kind of prophecy.

However, the expert is still caught in the process of decision making, after he has described alternative courses of action, because he will probably discover that his ideas are subject to interpretation by the executive assistants before they are finally accepted or discarded. He may find that the executive who gives him the greatest degree of general approval and support interprets his suggestions in such a way as to produce results the expert did not intend. The expert can protest and argue; he may find himself silenced by the claim that his expertness goes only to the general idea and that translating it into action requires another kind of knowledge which he does not possess, that is, knowledge special to the time and occasion and occupational in character.

After a decision is made by the administrator and a policy is explicitly chosen, then further interpretation in terms of action ensues and the next decision will be as to which of the proposed practical lines of action will best achieve the policy's goal. The expert may be consulted on the alternatives here but most of the suggestions will be offered by the various executive assistants; the administrator or one of his staff with delegated powers will choose. Subordinate decisions in a long series of budget making, personnel selection and concurrent commands will follow from this point forward.

We go back now to the essential character of decision making in practical affairs and the understanding of it that will be most useful to the visiting consultant. A more or less conscious desire to dominate and get ahead in the administrative hierarchy pervades the behavior of all members of the staff. As

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we indicated before, this apparently cynical observation is subject to correction or reduction in any particular case. It can be observed, however, in the world of affairs, that the devoted and impersonal staff members who think only of the organization, never of themselves, seldom rise very high. And this may be better for the organization.

There are whole ranges of human endeavor in which competition in this sense does not enter; where the desire to excel is only a race for personal usefulness or service. It is also true, as I have insisted in many other places, that the goods that can be acquired by struggles for material power in business or politics are not of the highest order. We could even go so far as to say that the deepest satisfactions for men who constantly struggle for power and advancement in practical affairs seldom develop out of material success. All these statements are true and important; but the expert consultant who goes into the decision-making process, expecting to rely upon these reassuring facts, is immorally stupid. He is not exercising the ordinary prudence expected of any man of goodwill who has a practical purpose. If he discovers what ought to surprise him, namely that the hierarchically ranged members of the staff achieve an objectivity in opinion which he is himself striving for, he has lost nothing but anxiety. If any of them turn out to be more basely human and he is surprised, he may have found out the truth too late. A kindly skepticism regarding the motives of all men in practical affairs is the usual attitude of experienced men of action; it becomes the expert quite as well if he can attain it.

The competitive modifications of opinion which we are accusing the members of the staff of making are, of course, partly unconscious, sometimes entirely so. The first to be looked at are the power ambitions of the executives. The difficulties of the administrator, the final arbiter, can be spoken of later. The executives, who are, by our definition, all the members of the staff who have access to the administrator for purposes of policy discussion, will generally become quick advocates of some one of the various alternatives that are open in making the decisions listed above. They will have honest convictions about

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these alternatives and will in most cases be expressing those honest convictions. The administrator who cannot count on getting such honest opinions, either because he demands timid caution and "yessing", or because he has put men on his staff who are so completely political that they merely intrigue, deserves what he gets and is almost certain to fail in the long run. The administrator who is just and honest in his own opinions can expect a fair return in honesty. The executives, however, will almost certainly have something in their minds beyond the intrinsic worth of the opinions they back. They will also have more or less conscious mind-sets that have organized in complicated fashion their desires to raise their own prestige and to make it likely that they will be allowed to help in further decisions and in decisions on other matters.

In scientific and scholarly disputes, or in consultative debates, it is more likely to be one opinion against another; one opinion wins if the question gets settled. In practical matters, the question almost always gets settled but it is a man and not an opinion that wins. Every member of the staff wants to be that man, or to be associated with him. The description sounds more dramatic, of course, than the event generally seems to those who take part in it, but smiling friendliness and general acquiescence should not deceive the outsider.

The ambitions of the members of the staff, moreover, are not confined to motives of power. In many situations, the decision to call in an expert has followed deliberations in which members of the staff offered their own quasi-expert opinions and suggested courses of action. These suggestions were turned down, either by administrative fiat or by consensus; in any case, the executives are always inclined to resist the appeal to an outsider. His expertness is itself something of a criticism of their competence. Of course, situations may develop in which the adviser and his advice become a stake in the power game itself. At this point, the ambitious executive will affirm or deny the expert's competence without completely responsible regard for his real value. Academic veterans will probably have become indurated against the melancholy fact that some of their own colleagues on the campus will occasionally deride some other

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scholar's claim to eminence because of motives not strictly scholastic; that is, they may deny a man's scholarly attainments in order to express their dislike or envy or fear of the man. The partisanships of executives are also colored by this kind of irrelevant feeling, but it is not so likely to sway them as are more clearly competitive motives. The expert, then, may have allies and opponents, to both of whom he has become a stake in the power game, but it would not be wise for him to count on simple friendships. His mere existence is a mild slur on the competence of the men he is dealing with, and to whom he is giving the supposed benefit of his superior knowledge. Even the administrator, the decision maker, may not be above claiming expert knowledge which helps to bolster up his ascendancy over his executives and lessens his obligations to the outside adviser. What the administrator says is not likely to be listened to with complete objectivity by anybody.

There is a story that tells of the conversations which used to be held on the palace hill in Rome to entertain the Emperor Hadrian. He loved disputes about grammar and usage and word origins; professors were invited to dine with him and argue for his pleasure. Sometimes, he ventured an opinion of his own and on one occasion one of his experts rejected the emperor's theory summarily. The argument waxed hot and the emperor shouted. The deipnosophist shouted less and less as the exchanges went on, until at last the administrator, Hadrian, pronounced a final truth and his challenger was silent. "Aha," cried Hadrian, "my arguments have left you nothing to say." "Sire," replied the visiting expert, "who am I to disagree with the master of thirty legions?"

In the court at Rome, it would have been suicidal for the expert to have power ambitions of his own to match the knowledge ambitions of the emperor. In less deadly arguments, without his being well aware of it, his own pride in making decisions instead of merely outlining alternatives may lead him into actions which are appropriate only if he is prepared to enter fully into the power contest. If he does so, his sense of objectivity and his reputation for disinterested knowledge are both likely to be damaged.

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The problems of the administrator, the one who makes the final policy decisions, are one aspect of what has already been said. One of his most difficult procedural decisions, made generally by accident or intuition, is to choose the moment at which he will become a working member of the group that is examining the possible alternative lines of action. As long as he keeps out of it, he is only a useful future umpire. As soon as he joins the discussions, all ambitions are heightened because the dispenser of promotion and prestige is on hand to be impressed. If he makes choices at that time among alternatives, he is inescapably choosing among advocates as well as among plans.

On the other hand, if the administrator holds aloof too long, he is at the mercy of his executive assistants since he must accept, as his range of choices, whatever they bring to him in the report of deliberations. This is one of the most acute of the phases of the general administrative problem: How much should a manager be immersed in the actual diurnal round of his business in order to manage it? There is not likely to be any handy rule that will settle all cases. The principle needs far more thorough working out than it has received.

The special problems of the administrator can only be mentioned; they require much more elaborate treatment in other contexts. But it is useful, when we are plotting the difficulties of the outside expert in the swiftly changing patterns of an organizational process, to recall that the administrator has a primary task in keeping his own power as against rivals both inside and outside his own organization. It is a romantic notion of power, which ought to be blown out of an academician's imagination in his first experience as a committee chairman, that a man who struggles to get power can, having gained it, loll back and think about the good of his enterprise. He has, in fact, moved himself not to a seat of thoughtful leisure but to the center of a popular target. And to some extent, the greater the emoluments and the prestige of his position, the less he can think about anything but keeping it. All proposals for the single-term occupancy of the White House are based on this fact, usually described in a more gingerly fashion. Exercising power is drastically interfered with by the need to hold it,

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unless you have agreed to get out on a fixed day. In politics, this is always a preoccupation of all but the innocent statesmen. In business, it is closely entangled with other motives and problems because a business administrator's power may be diminished as much by the loss of his company's competitive position as by his own loss of position in the company. The two problems are often faced in the same decision. In any case, these things absorb time and attention that might otherwise go into thinking about function as well as purpose.

In dealing with his executive assistants and the whole staff attached to him through them, the administrator has to give the example and the general direction of morale, as well as to make final choices among suggested alternatives. Sometimes he shakes morale by the seeming caprice of his choice, or by disagreeing with too many of his subordinates. As he listens to arguments, after he enters the deliberations, he is kept busy in settling the power disputes among his assistants in order to get the best ideas, to promote the fittest men and to keep the appearance as well as the fact of justice. He must be alert to disentangle the knowledge values from the power bids of his advisers, whether they are executives or consulted experts.

He has also to think up ideas of his own. For this task, he has little time. His fitness to be the administrator, the man who makes the last decision and determines policy, is not determined by his fecundity in ideas. His ability to see the intrinsic as well as the situational value of an idea suggested to him is obviously far more important; other qualities which lie outside the scope of a theory of advice may count still more. It is evident enough that men of action, in business and politics, are often gifted with high intellectual powers, even beyond the needs of their work. They are not likely to exercise them for fun, as is the privilege of philosophers, artists and teachers. But success in practical affairs is not commanded by sheer intellectual ability; other qualities of mind and character are also needed. Inventiveness does not seem to be one of them, and there is more inventiveness for sale in the market than there is of first-rate administrative capacity.

The adviser, coming in *ad hoc*, has also some special prob-

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lems of his own, for which he needs to be prepared. One is his responsibility to protect himself against being used to justify decisions already made. Just as some manager will, with naïve dishonesty, call in workmen to "discuss" decisions already finally taken, so some administrators will ask advice when what they want is help. If the expert accepts the rôle of rationalizer, he may destroy his own integrity; he can often detect the hidden invitation to serve as mere helper in the formulation of the question he is asked to advise on. The first battle between adviser and staff, as we have already indicated, may be at that point, where the problem is described. Dr. John Gardner, of the Carnegie Corporation, has pointed out in a privately circulated memorandum that the expert is often challenged at the very outset of his work by the question of who has the right to say what the problem is. As a responsible practical manager, the administrator will usually assume that he has a right to tell a hired man what he is hired to do. On the other hand, as master of a field of knowledge, the consultant may well assume that he alone, and no other person of less knowledge, can understand the implications and history of a problem. Most men who have been consulted by business executives have discovered that much of what they think is pertinent is considered "theoretical" by business men and that an attempt to extend the span of time of either hindsight or foresight is resented. No rule will suffice to guide the consultant here; he is the keeper of his own conscience.

There are limits on the criticism of one expert by another and the consultant has to decide what is appropriate for him to do in the competitive aspect of the world of knowledge. A more difficult question is what he will do in service to the public relations of the company he is temporarily working for. He may be asked by his own employer to issue a statement which, while technically truthful, is clearly planned to be a sales appeal. He may be asked by a newspaper or broadcasting station to comment on the general area in which he is working, as when physicians who are advising pharmaceutical manufacturers are asked to tell the public all about cures for the common cold. The problem is to keep honest. For the salesman or the ad-

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vertiser to push his own product is honest; that is his economic function. But to what extent can the expert permit the use of his name and his personal prestige for the same purpose? He expects his findings, accurately reported, to be used. What about his professional standing? The old rule, that doctors and lawyers do not advertise, does not help very much since that has to do with whether or not they should advertise themselves. To what degree can a physician who has helped, as expert, to make a drug useful allow his name to be used to increase public use of it? The answer is not suggested; the purpose here is only to mark the crossroads, with full stop signs.

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Another aspect of the policy-making process which involves theoretical problems of freedom and authority, as well as practical problems of the relation between knowledge and power, is the definition of constituencies. Every person in a policy-making situation has his constituency, which may be free or captive. He has a group of people to whom he can appeal, in his own terms, for support and they can or cannot defy his administrative superiors. The analysis of this structural aspect of decision making, when adequately done, will greatly help to solve the difficulties arising from the fact that our governments must deal more and more with technical questions, wherein legislators, voters, administrative officers and elected executive officers have different kinds of competence, different degrees of freedom, and different private purposes. The same sort of complex relations on a smaller scale can be seen in industrial and other kinds of private organizations.

The concepts can be explained in terms of an ordinary hierarchy of authority in a political situation, and the operation of constituencies will be understood as the mechanism by which democratic institutions restrain power. It is the criterion of freedom for any person in an administrative complex to discover whether or not he has a group to which he can appeal for help which is not itself subject to the same superior pressures that he is subject to. For example, the head of a bureau in the state government of New York has a lesser degree of freedom than a member of the state legislature. The legislator can

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appeal to the voters of his district, who owe nothing but a reasonable hearing to the administrative officers of the state, whereas the bureau head, if he quarrels with his superiors, has no such independent group to appeal to. An appeal to an unorganized "public opinion" is of slight avail for the bureau head since he has no special relation to any part or organ of the general body politic.

At the same time, the bureau head does have another kind of a constituency, which we can call "captive". It is made up of his fellow administrative officials, both above and below him in the hierarchy. They are not a free constituency because, although they may with more or less effect and safety take his side in a dispute against his superiors, they are subject to the same kinds of pressure that affect him. If they are his subordinates in a direct line they are somewhat bound to him; if in an indirect way, they are bound by their own superior's action whatever it may be. If they are his coördinate or superior officials, they will be influenced by all the lines of authority and the inner struggle for power and will more or less consciously have to calculate the effects of their own overt opinions on their own ambitions.

The term "free", as applied to the voters in a legislator's district, does not mean that these persons are free of self-interest, prejudice, psychological pressures and all the rest of the circumstances that bedevil the political thinking of all populations. They are a free constituency only in the sense that they have an established relation to the legislator which enables them, if they are persuaded, to exert pressures in his behalf, and they are not in any way affected by the administrative hierarchy in which he works. The bureau chief can organize support for himself inside the administrative system of the state, but his colleagues are not free to act as are the voters. To put it crudely, the governor, as administrator, can give orders to a bureau chief but not to a legislator.

One chief difference between a representative democracy and a totalitarian government, in purely technical terms, without regard to purposes or ideology, is here. In Russia, for example, in the present operational development of administration, no

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official of any kind, appointed or elected, can be said to have a "free" constituency. The only free constituency is the people as a whole to whom in some measure the supreme government is responsible. No one has any legal machinery by which he can appeal to the country, or to any part of the country, as against his superiors or colleagues. It is the essence of a totalitarianism that all constituencies are captive. Anyone to whom any official might appeal for support in a dispute is himself a member of the administrative hierarchy and thus handicapped in his opinions, still more in his action. In a completely totalitarian country, a legislator cannot appeal to the voters as against administrative officials or against his legislative colleagues because he is named to his post by the party; and only the party, through its regular graded channels, can express opinions. In a country with a more open system, like the United States, the tradition of allowing appeals to a free constituency is so deep rooted, and so close to our moral convictions regarding fair play, that an astute politician like President Truman will allow General MacArthur to dispute in public the administration's policies, although MacArthur has no legal constituency, and is actually under strict orders which could include an order not to discuss political or military matters in public. The fact that a rebellious and disgruntled military hero would not have been given open triumphs in Russia, but would have disappeared, is simple evidence of the causal fact that Russian political machinery offers no method by which MacArthur could have appealed to public opinion except by armed revolution. Caesar brought his legions with him when he crossed the Rubicon; MacArthur got his biggest triumph in a city controlled by the administration with Democratic party officials leading the cheers. The tradition is powerful and the machinery offers no obstacle; one could scarcely work without the other.

In more regular situations, the member of the cabinet who disagrees with the president has no free constituency to which he can appeal; he has to rely upon arguments with his chief and whatever support he can get from his captive constituency which is made up of the president's other advisers and the subordinate ranks of the government staff. The member of Con-

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gress has the ideal type of free constituency in the voters of his district who will, without any obligation or deference toward other members of the government, give him their judgment on what he does, in so far as they know about it and can understand it.

This is a concept of broader use, moreover, than can be seen in these commonplace political examples. Take, for example, the administrative hierarchy of a broadcasting network which is a profit system of the most modern kind. A vice president in charge of programs who has been reasonably successful in his past judgments will be listened to thoughtfully by the administrator above him. But if there is disagreement, the vice president has only a captive constituency, of the same sort as the one that can give limited help to a cabinet officer in the federal government. In the case of a performer on the air, however, even though he may be bound by contracts and have no administrative rights, there is always a free constituency to appeal to; it comprises his fans. He can appeal to this audience as against his editor, and the same kind of relations gives freedom to a novelist or a magazine writer. The principle can be extended. The meaning in larger terms is that any system which does not give to some members of the administrative or ruling group the chance to appeal to another free group for support must necessarily be authoritarian and monolithic.

The principle applies with special force to the function of the expert, the adviser, whom we were discussing previously. His free constituency is the company of scholars and scientists of which he claims to be a member. The administrator of a private organization is not bound to take the adviser's opinion, but the adviser can walk out of the assignment. In a free country, the adviser who is working for the government can appeal to his scholarly colleagues and they can reply not only as specialists but also as part of the general public, which in a free country is the locus of free constituencies. In a totalitarian country, there are no fully private organizations, and the expert has no way of escaping the pressures of power. If he submits to these pressures, as he almost certainly will, the scientific and technological progress of the state is retarded. The

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administrator, whether in business or in government, is sure to profit in the long run by the amount of honest information he can get out of his advisers.

. . . . . .

In this paper only two aspects of the function of advice have been touched on: the relation of the adviser to the inner hierarchy of power, and the relation of any member of a decision-making process to his possible support. It will be noted that nothing has been said about communication, although the difficulties of communication enhance every kind of difficulty mentioned. Such omissions of factors are justified only if the isolation of other factors makes for clarity. This is an area of human behavior which has been cluttered with generalizations, but is seldom subjected to analysis; there is not even a taxonomic basis for discussion.

The function of advice is one of the oldest in human affairs and certain abstract generalizations about it that could have been made in palaeolithic times are still true. Most of those generalizations, however, have not been made and, as far as can be discovered, no standard treatise in this field has ever been written. There are mountain piles of books on salesmanship, which is not disinterested advice, and a molehill of books on leadership, but nothing on the techniques and difficulties of trying to put knowledge at the service of power. The right relation of knowledge and power is, however, one of the key problems of our age. We need to give the closest scrutiny to the processes whereby decisions are made, and the effect on those decisions of rational information, if we are to master the difficulties of freedom in a time when power is so developed and knowledge is so dispersed. The function of advice is one of the crucial points in that relation and on that account may well be studied first.

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# THE NEW FACE OF ALGERIA

## PART I

### *Political and Administrative Development*

### 1

IT is well over one hundred years since, in the midst of a political crisis at home, France first reached out to occupy the territory of Algeria stretching for more than a thousand miles along the mountainous opposite shore of the Mediterranean. From the very beginning of this occupation France has been engaged in the task of molding and adapting administrative institutions for the area. Though Algeria has caused France many a heartbreak and infinite toil in the progress of its development, today many Frenchmen point to it with pride as one of the outstanding monuments to the "*genié civilisatrice*" of France. But the success of any colonial venture must be measured in terms of the benefits brought by the occupying Power to the native peoples of an area brought under its control. It is upon this scale that the present paper will attempt to evaluate the present political and administrative institutions which France has laid upon Algeria.[1]

The French régime in Algeria has, since the beginning, been a long attempt to find the best means of assimilating the territory to France. The pendulum of the administration has swung back and forth from military to civilian, from purely autocratic through various forms of approach to popular control. The latter form reached its culminating point in the establishment of the Algerian Assembly by the Statute of Algeria in 1947. The years following the French military landings in Algeria saw control over all governmental functions remain entirely in the hands first of the Commander of the *Armée d'Afrique* and then the Commander of the *Corps d'occupation.*

[1] Research for this article was made possible by a grant from the Columbia Council for Research in the Social Sciences.



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This situation resulted, however, in a growing confusion, since the military authorities, occupied as they were in pushing French domination further along the coast in both directions, had neither the time nor the energy to devote to civilian administration. The newly arrived French colonists began an increasing demand for civilian administrative organs while the native population, still considering itself independent, demanded return to the *status quo* before the French interference. Basically, the fault lay not in the authoritarian character of the military régime (which, given the situation, could scarcely have acted otherwise) but with the government at home. Public opinion was largely apathetic to the military operations being carried on in an unknown land; and there was considerable doubt in government circles of the value of maintaining a hold on Algeria. For these reasons little if any attempt had been made to evolve an organized policy to deal with the Muslim population. It was not until after two Commissions dispatched to Algeria in 1833 had reported Algeria worth holding for France that the government, by ordinance of July 22, 1834, declared the new territory French and set up a skeleton administrative organization.

The new administration was intended to satisfy to some degree the demands for civil direction of the country but the continuing unrest in relations with the native population made any restriction in the military control almost impossible. The chief administrative officer was to be a governor general, and, since he was appointed by the Ministry of War, he turned out invariably to be a military man. In the hands of the new Governor General Drouet d'Erlan were concentrated extensive powers over the military establishment and negotiations with native tribes. By means of the *arrêtés* which he issued, he possessed complete power to legislate for the entire population. Until 1844, there were no serious attempts to introduce other than purely military autocracy, although the work of organizing the territory and the pacification and regulation of the native population proceeded relatively rapidly, particularly under the capable if authoritarian régime of General Bugeaud.

An interesting aspect of the early period of French control was the establishment of the *Bureaux Arabes*. Organized in

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1844 by Bugeaud, the *Bureaux* consisted of a central office in Algiers, and suboffices in the various military command districts. They acted as regulatory arms of the French military authority, settling disputes between tribes, and on an individual level dispensing justice, both native (through a native judge attached to the *Bureau*) and French. The *Bureaux* were also tax collection agencies and supervisors of education, and last, but not least, through his close connection to tribal politics and disputes, the *chef de Bureau* performed invaluable military intelligence functions. Despite the opposition of the French civil population, who saw in the *Bureaux* the continuance of arbitrary rule, the *Bureaux* continued to function up until 1922. Gradually, as civilian administrative operations spread through northern Algeria from 1870 on, their functions became more and more reduced but in the south where the military régime continued, the *Bureaux* continued to perform valuable services in giving to the desert areas a rudimentary form of administration. The *Bureaux Arabes* were something of an *ad hoc* experiment in administration of native affairs but they served their purpose well by providing immediate contacts between the Arab tribes and the new French rule.

Gradually, as colonization proceeded, the concept of Algeria as part of Metropolitan France became more firmly implanted, and the policy of assimilation took root. After 1844, the Algerian budget was incorporated in the French state budget, and after 1845 the territory was divided into three *territoires civils*, under a *Direction d'Affaires Civiles*, which, although subordinate to the Governor General, nevertheless took from him all control over the civilian administration. The metropolitan law on the communes of 1837 was applied to Algeria in 1847. For a brief period from 1848 to 1852 great efforts were made to apply the same régime to Algeria as applied at home. The French in Algeria were permitted to exercise the franchise for the constituent assembly, the Algerian civil departments were attached to those of the home government, and the three civilian territories were organized as French departments under the prefecture system. It rapidly became evident, however, that this policy of immediate assimilation and democratization was a complete failure. The sudden separation

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of civilian and military administration, particularly when the former was in the first stages of development, brought confusion and discontent on all sides. It was here perhaps for the first time that the fundamental problem of Algerian administration first became clear—a problem with which France is still struggling to the present day.

The experiment of immediate assimilation having failed, the history of Algerian administration under the Second Empire became one of slow evolution with a constantly growing bitterness in the conflict between the civilian and military authorities for control. The decade after 1848 was marked by the return to complete military control, the rescinding of the civil rights granted to the French colonists and the progressive extension of military control through the highlands beyond the coast and into the desert lands to the south. For a brief period after 1858 there existed a Ministry of Algeria in the French government and policy changed to one of complete centralization. The Governor General's office was suppressed and all civil services were transferred to Paris. All decisions were made here, and put into force by the prefects on the spot. However, the system created more enemies than friends; the native population became increasingly restive due to the continual invasion of their lands by the influx of French colonists, while the French citizens objected strongly to the withdrawal of their civil rights.

A brief visit by Napoleon III to Algeria in 1860 quickly brought about a total reversal of policy. The new direction was keynoted by the term " the Arab kingdom ", explained by Napoleon in a famous letter to Marshal Pelissier, the first appointee to the reëstablished post of Governor General.

> Algeria is not properly called a colony, but rather an Arab kingdom. The natives have, like the colonists, an equal right to my protection. I am emperor of the Arabs as well as emperor of the French. . . . What is important is not to people Algeria with wretched, greedy individuals but to encourage large European companies to engage in vast enterprises of public health, immigration and scientific exploitation.[2]

[2] Quoted in *Documents algériens*, Sér. Politique 120.16, August 1, 1948.

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Although administrative services were transplanted to Algeria under the Governor General, the civil and military authorities continued an almost completely autocratic rule. Two attempts were made to satisfy native demands, one by the *Senatus-Consulte* of April 22, 1863, which dealt with the property rights of the natives, and one of July 14, 1865, dealing with their citizenship rights. The former outlined the territories set aside for the native tribes and set up *douar-communes* for local administrative purposes. In Arab territory the *Djemaa* or tribal assembly (long established among the Berber tribes) was designated as the local administering authority. Unfortunately the administrative divisions designated revealed a complete lack of understanding of local customs by breaking up groups of common origin and regrouping them with others of totally different customs. The intention of the decree was excellent, but it was in itself largely inoperable, a further example of the impossibility of legislating effectively in France to meet conditions in North Africa. The second *Senatus-Consulte* gave to the natives the right of French citizenship, of serving in French armed forces and of holding certain civil positions, but again it proved inoperative since the gaining of French citizenship subjected the individual to French civil and judicial regulations, many of which were incompatible with Koranic law or Muslim justice so that the unfortunate native found it impossible to be French and a Muslim at the same time. Events before the outbreak of the war of 1870 served only further to condemn the military character of the administration and so, with the coming of the Third Republic, Algeria was ready for a complete administrative reorganization.

The keynote of the following quarter-century was hit by General Chanzy, the Governor, in the sentence, "Algeria is an integral part of the metropolitan area and must live the same way France does." An attempt was made immediately to eliminate the military régime. By decree of October 24, 1870, Algeria was placed under the authority of a civilian Governor General, answering to the Ministry of the Interior in Paris, and the administration was to be centralized in Algiers. The difficulty with this system was that, were decisions to be made

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entirely in Paris, the Ministry of the Interior could make decisions only in those fields in which it was competent, and all other decisions would have to be made by the Ministry under whose direction the question fell. The result was that the various services of the administration in Algeria became responsible not to the Governor General but to their respective ministries in Paris. Hence the Governor General lost all powers of initiation and became merely an executive agent for the various ministries. The process of assimilation and centralization had by this act become complete.

Not until 1871 did Algeria secure representation in the National Assembly. By decree of October 1870, the three departments, created in 1848, were granted full equality with those of France and permitted, by decree of February 1871, to send two deputies each. Moreover, by 1884, each department was permitted one senator, elected by the French members of the *Conseils d'arrondissements*. Local administration was organized as far as possible along the lines of that in France.

However, the old division of territory into civilian and military continued, the latter gradually receding into the unpopulated areas of the south. In both the civil and military administrations appears an organ peculiar to Algeria, the *commune mixte*. In contrast to the *commune de plein exercice*, which corresponded exactly to the commune of the *Métropole*, the *commune mixte* was designed to administer large areas where the population was sparse and primarily native. It was directed by an Administrator in Chief and his assistants, who were aided by a local council composed of European colonists and the presidents of the *Djemaas* or local tribal assemblies. The administrators of the *communes mixtes* very rapidly took over the functions of the gradually disappearing *Bureaux Arabes*, including the judicial functions of these offices. The particular administrative unit of the *commune mixte* proved so valuable that it survived the many changes in Algerian government in the later nineteenth and early twentieth centuries and was removed from the scene only with the coming of the Organic Statute of Algeria in 1947.

The period of assimilation after 1870 brought about numer-

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ous positive results, particularly through the increase in French colonization. The French population of Algeria rose from 130,000 in 1871 to 318,000 in 1896. But at the same time it became increasingly evident that the policy of applying French laws in their entirety to Algeria was causing hardship and discontent among the native population. Jules Ferry, in a report to parliament prepared by a commission of inquiry under his direction, criticized strongly the policy of assimilation:

> It requires some courage to recognize that French laws cannot be transplanted completely; that they do not possess the magical attribute of crossing every barrier with which they are confronted; that social conditions resist change and that in any country the past must be reckoned with the present. It seems clear to us that there is perhaps not a single one of our continental laws and institutions which can, without basic changes, be suited to the 272,000 French, 219,000 foreigners and 3,267,000 natives who live in our Algerian Empire. . . . We must recognize that the policy of legislative assimilation is breaking up before our eyes. We must quit the false road we are treading and retrace our steps.[3]

The Ferry report had a salutary effect; parliamentary opinion changed rapidly and from 1896 to 1902 a series of reforms was passed giving a completely new orientation to Algerian administration.

This new policy had as its cornerstone the assumption that Algeria was not simply an extension of France, but rather that it possessed, through its geographic situation, its ethnic basis and its economic development, a character of its own which could not be denied. Moreover, the distinction was now made that, while Northern Algeria might be susceptible to a large degree of Europeanization, the southern region of the Sahara presented an almost unique problem in control and administration. This new recognition of Algeria's position, however, meant no modification of French sovereignty over the area; despite decentralization, French interests remained paramount and French control was in no respect weakened. The new policy was inaugurated by the decree of *dérattachement* of

[3] *Documents algériens* No. 17, Sér. Politique, August 10, 1948.

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December 31, 1896, amplified by the three decrees of August 23, 1898, and by the law of December 19, 1900, on financial and economic questions. These laws, taken together, form what has been called the "Charter of Algeria".[4] For the first time, an attempt was made to codify and accelerate the administrative development of Algeria which had been both slow and groping. The attitudes and organization of the office of Governor General set up by these laws became the form which has remained to the present day, with little modification, even through the Organic Statute of 1947.

The Governor General is named by decree of the Cabinet, upon the nomination of the Minister of the Interior. His functions, outlined in various laws and decrees after 1898, make him the direct representative of the French government in Algeria and, at the same time, the supreme head of the entire Algerian administrative cadre. He guards French national interests and advises upon the appointment of high administrative officials. Even the prefects of the three departments are subordinated to him. He is responsible for defense and security and for the activities of all branches of the civil service, except the few which remain directly attached to the ministries in France (such as non-Muslim judicial control, education and broadcasting). To assist him in carrying out his duties, the Governor General has two Secretaries-General, one in charge of the administrative services of the government and one who concerns himself entirely with matters of economic development. A council, consisting of the directors of the various services and other high officials, acts in a purely consultative capacity in formulating decisions. Below the Governor General are the several *directions* and *services* of the government: finance, education, interior, public works and transport, agriculture, public health, labor, postal services, medical control and administration. Attached also are a division of legislation and the *Délégation Générale du Plan*, charged with the carrying out of the development projects coming under the purview of

[4] They have often been referred to as the "Statute" of Algeria, but in order to avoid confusion with the Organic Statute of 1947, they will be here referred to as "Charter".

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the over-all economic work of the Monnet Plan. In addition to the normal administration of the three departments, control of the Southern Territories rests in the office of the Governor General. To him are responsible the military officers commanding the four large *circonscriptions* or administrative territorial units (Ain-Sepa, Ghardaia, Taussaint and les Oasis) of the Southern Territories. Generally speaking, laws applicable to Algeria are equally applicable in the Southern Territories, save where express reservation is made, and it is the duty of the military commanders to see that these are applied in the ten *communes mixtes* and the five native communes of the Sahara region.

It is perhaps in the field of financial control that the administrative reorganization after 1900 has given the most impressive evidence of the new attitude on the part of the mother country toward Algeria. The *Direction Générale des Finances de L'Algérie* is a miniature of the *Ministère des Finances* in France. To it were attached also the General Treasury of Algeria and the customs service. Up to 1900, Algeria had never possessed a separate budget. All revenues coming from the area entered directly into the French treasury and, in turn, the French national budget included annually appropriations for Algerian affairs. By the budgetary law of 1900, the Algerian budget was removed from that of France and became an entity in itself. Receipts went entirely to the credit of Algeria itself, the mother country realizing only the sums coming from the sale of state monopolies (such as powder, tobacco and alcohol). With the gaining of its own budget came simultaneously the creation (by the decrees of August 1898) of the *Délégations Financières Algériennes*, an elected body whose duty it was to advise the Governor General on questions of taxes, duties and some budgetary matters. The *Délégations*, of which three were provided for in the decree, were to consist of elected members, one of colonials, one of noncolonial taxpayers and one of natives. The first two delegations consisted of 24 members each; 8 members being elected from each department. The third delegation of native members was not formed until 1922. It consisted of 21 members, 15 of non-Kabyle origin (5 from each department) and 6 Kabyles; the electors were the native voters registered in

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the area and the native members of the municipal commissions and the *Djemaas*.

The Governor General was compelled to consult with the delegation separately at least once a year and could by special regulation convene all three into a Financial Assembly for discussion of questions of mutual concern. The system of the *Délégations Financières* operated until the outbreak of war in 1939, but lapsed during the war and was replaced on a temporary basis in 1945 by a single Assembly of 37 members, which was consulted on the 1946 budget only. The system of financial consultation was, of course, a great improvement over the former situation, under which the Algerian population had no voice in governmental expenditures. But even with the new system, discontent was bound to arise, since the delegations operated only on a consultative basis. Further reorganization of the system was becoming imperative before the war but it was only with the changes of the Organic Statute of 1947 that some amelioration of the situation was brought about.

The century of Algerian administration before 1939 is essentially one of a struggle between conflicting interests and forces in the government of France itself. On the one side was the military with its prior claim to occupation; on the other the civil administration with its constant aim of civilian control. The concept of the position of Algeria in over-all French policy was never clear. Certain interests of the *Métropole* felt that Algeria should be purely a part of France; others were convinced that the territory should be exploited for the benefit of the mother country but without direct attachment to France, except through the autocratic control of an appointed official. To meet the demands of the colonial settlers and of the native peoples, as well as those at home, governmental policy swung from complete assimilation to complete decentralization, constantly tearing down what a previous period had built up. The result was a slow, tortuous evolution, faltering constantly in its progress until prodded on by increasing discontent in the Algerian population. A final and perhaps the most complete reorganization of Algerian policy came only after World War II with the Organic Statute of 1947 but even this in its detail

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has only served further to emphasize the paradoxical position occupied by Algeria in over-all French policy.

2

The Organic Statute of Algeria (Law No. 47-1853 of September 20, 1947) was the answer of the Fourth Republic to the continued demands of the Algerian people for greater control of their own destiny and for a regularization of administrative procedure. The new demands which led to the Statute were, of course, in no small measure attributable to the events of the wartime years, but, at the same time, they represented the culmination of a period of increasing nationalist unrest in North Africa which had begun in the early years of the previous decade. Even before the end of the war, the French had made known their intention of carrying out reforms as soon as practicable. A token of their intentions was the ordinance of March 7, 1944, which permitted the Muslim to maintain his traditional rights of marriage and inheritance under Muslim law, even while becoming a French citizen. This was, of course, a direct attempt to circumvent the difficulties of the naturalization laws of 1865 and 1919, which had been little used, since by taking French citizenship under them a Muslim lost his native status. This reform was further enforced through its inclusion in the Electoral Law of 1946.

The impetus to reform throughout the entire Mahgreb area (the name given to the collective territories of France in North Africa) was sharply strengthened by the Algerian revolt of 1945. During the first two weeks of May, demonstrations took place in various areas of Algeria, both in the large cities and in more remote areas, which terminated in many cases in bloody revolt. Villages were burned, farms sacked and property destroyed, and the government took harsh measures of repression. Planes and ground troops finally restored order but only after more than a hundred Frenchmen and an estimated 17,000 to 40,000 Muslims were killed.[5] The causes of the up-

[5] The estimates vary depending on the sources used—*cf.* M. Halpern, "The Algerian Uprising of 1945", *Middle East Journal*, vol. 2, No. 2, April 1948, p. 196, and V. MacKay, "France's Future in North Africa", *ibid.*, vol. 2, No. 3, p. 300.

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rising have been variously assigned to food shortages, nationalist enthusiasm after the San Francisco conference and the influence of Communist agitators. The full explanation may never be known since the French have minimized press and official reports of the affair and are exceedingly loath to discuss it. Whatever may be the full reasons, it is evident that it hastened the reform movement very greatly; although the objects of the revolt were not accomplished, it left a legacy of bitterness which the French have sought to repair and smooth over as rapidly as possible.

Outside Algeria, too, there was evidence of interest in North African reform. At the conclusion of a conference on North African Affairs meeting in Cairo from February 15 to 24, 1947, under the sponsorship of the Arab League, the following aims were announced: (1) abolition of the French protectorates in Tunisia and Morocco and the nonrecognition of French rights in Algeria; (2) the proclamation of the independence of these countries; (3) total evacuation of foreign troops; (4) refusal to participate in a French Union in any form. While the French were aware that little could be done to gain these extreme ends, they nevertheless recognized that such demands would add fuel to the nationalist fires so that immediate action on the French side became imperative. The result was the introduction into parliament of the Organic Statute of Algeria, which finally became law on September 20, 1947. The measure provoked violent controversy in the Chamber: on one side because it was felt that it would only undermine the position of the colonists; on the other because it failed to go far enough to suit nationalist demands and would therefore be ineffective.

The measure finally adopted continues in large part the functions of the Governor General as they have already been outlined above. He is the general administrative head of the government and the representative of the French government to which he is responsible. He safeguards constitutional liberties and rights and is the executor of the decisions of the newly created Algerian Assembly. He is assisted by a *Conseil de Gouvernement* composed of two appointees of the Governor

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General, two elected annually from the Assembly, one from each college, and the President and Vice President of the Assembly. All administrative services except education and justice are placed under his authority.

The most significant innovation is that of the Algerian Assembly. It consists of two bodies or colleges of sixty members each, elected on a free, universal suffrage basis, for six years, half being elected every third year. The first college consists of those citizens possessing French civil status, and several special categories of native citizens. The second college is entirely Muslim. The powers possessed by the Assembly are limited; they are primarily in the field of finance where the initiative is shared equally by the Governor General and the Assembly. In its three sessions annually, the Assembly listens to and votes on reports by its Finance and General Commissions who are responsible for proposing legislation. The powers of the Assembly in the administrative field are sharply limited by Articles 9-12 of the Statute. In these articles are specified certain categories of French laws which are automatically applied to Algeria; these include all laws guaranteeing constitutional liberties, all laws of property, marriage, and personal status (applicable to citizens of French status), treaties made by France with foreign Powers, and in general all laws applying to the military and civilian administrative departments or posts or to the *régime de la nationalité française*. From the broad point of view, then, it is evident that a substantial portion of the legislative field is outside the competence of the Assembly. Moreover, the Governor General has, in reality, the power of veto over any action taken by the Assembly. By Article 39, the Governor General or the Finance Commission may demand a delay of twenty-four hours, and a favorable vote by two-thirds of the members on any decision. In effect, this ensures that no legislation which is detrimental to the interests of the French element will ever be passed, since the Muslim members would never be able to secure a two-thirds majority. In addition the Governor General can by *arrêté* render null and void any deliberation of the Assembly on questions beyond its competence (Art. 45).

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The Statute spells out in some detail the position of the Algerian budget. Algeria is to possess its own budget, and the government has the power to grant concessions for all public works and services; it may borrow money and enter into any type of financial obligation. It is in this financial field that the power of the Assembly lies, for all modifications of taxes or duties must be voted upon by it, as well as the expenses of the government. The government of the Republic is expressly forbidden (Art. 19) to enter any other levy upon the Algerian budget except those expenses necessary for the execution of French laws in Algeria. All decisions of the Assembly must be homologated or confirmed by decree of the Governor General, who may, within a week's time, require a second reading of the legislation by the Assembly.

If within six weeks' time, a decision has not been homologated, and if the President of the Assembly has not been notified of the express motives for refusal of homologation, the action of the Assembly automatically becomes law. In case of refusal, decision is referred to the French parliament (Arts. 15 and 16).

A further aspect of the Organic Statute was designed to satisfy native demands on the question of citizenship. All inhabitants of Algeria are henceforth to be French citizens enjoying absolute equality without distinction as to race, language or religion in the rights of French citizenship. Those who do not expressly reject their personal status, however, will continue to be governed by their own laws and customs and their own rights of property and succession. Thus the native population is given simultaneously the rights of a French citizen while retaining all of the tribal property, marriage, and other rights and customs prescribed by Koranic law. In the debate on the legislation, these particular provisions aroused intense discussion, the burden of the argument against them being that to grant French citizenship to the native peoples would bring intolerable confusion in the administration of justice and would have long-run consequences unforeseen at the present time. These objections were finally voted down, but with mistrust on the part of many deputies.

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It will be seen that from the over-all viewpoint the Organic Statute is an attempt to satisfy the demands of at least the more moderate nationals while still retaining Algeria within the control of France. In no sense can the Statute be considered to give Algeria the position of a Dominion as in the British Commonwealth system; rather it is a method of granting a degree of independence on the one hand while continuing and reënforcing the traditional policy of assimilation on the other. The degree of control by the Governor General is to some extent weakened but nevertheless remains strong enough to prevent the likelihood of complete Algerian independence in the foreseeable future. The confusion which exists in some articles of the text is merely a reflection of the basic ambivalence of the motivation behind the Statute. Like all colonial Powers France was being forced by events both inside Algeria and without to take steps, however reluctant, toward the goal of Algerian independence, but every effort was made at the same time to retain the area within the sphere of over-all French political and economic planning. The long-run effects of the Statute remain to be seen but some indication may be taken from the results of the first elections for the Algerian Assembly.

3

The first test of public approval of the reorganized French régime in Algeria came with the Assembly elections on April 4 and 11, 1948. The electorate, many of whom were voting for the first time in their lives, consisted of some 550,000 French nationals and some educated Muslims who voted for the first college and 1,300,000 Muslim voters for the second college. For the first college, the parties were largely those of the mother country although some of the smaller parties banded together to form a front against the local nationalist parties. The results indicated a general trend toward the Right; the Algerian Union (backed by the RPF) and the RPF received 40 seats; the Radical Socialists 2, the Socialists (SFIO) 4, the Communists 1, and the remaining 13 went to more or less Rightist independents. The second or Muslim college was by far the more important in showing the influence of the recent legislation on native

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nationalist groups. The local nationalist leaders found it impossible to agree among themselves on a common leader, so that the contest fell chiefly to two groups, the *Mouvement du Triomphe des Libertés Démocratiques* (MTLD) and the *Union Démocratique du Manifeste Algérien* (UDMA); a third and much smaller group, the *Union Algérienne*, was only in process of organization and figured little in the battle.

The MTLD, led by Messali Hadj, campaigned on a strong program of immediate and complete separation from France, the formation of Algeria into an independent state and expulsion of all French interests from the country. The UDMA, led by Ferhat Abbas, was only slightly less violent in its attacks on France and its demands for independence. Both these groups had the backing of the small but vociferous Algerian Communist party, which had nominated 120 candidates for office but withdrew most of them in favor of Muslim candidates at the second ballot. The results of the election were a pleasant suprise for the French administration. Despite much campaigning the nationalist groups were able to gain only 17 seats, 9 for the MTLD and 8 for the UDMA. The remaining 43 seats went to independent candidates of much less violent opinion. At the first meeting of the Assembly, however, an MTLD member was arrested on entering and the leader of the UDMA was refused the right to speak. The members of both parties left the Assembly in protest and immediately charged the elections with fraud. They claimed that the French had engaged in gerrymandering, ballot-box stuffing and actual intimidation of the native voters to get the results they wanted and demanded new elections. Whether or not these charges can be substantiated is questionable, but members of the dissident groups with whom the author has talked maintain that convincing evidence can be produced but that the French authorities will not permit its appearance. This may be the case but at the same time there seems little general dissatisfaction with the election results outside the protesting groups. Even under the best possible circumstances the nationalist parties could hardly have hoped to secure a majority vote or anything like it.

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Despite their rather poor showing in the elections the MTLD and the UDMA, along with other smaller extremist groups, require some attention, not only for their strength in numbers alone but for their possible connection to the Arab nationalist movement as a whole and to outside groups, such as the Communists. The French have tended to see in the rising tension of nationalism the influences of forces totally apart from merely local discontents. It is presumed that the nationalist party leaders in Algeria and other parts of North Africa are receiving encouragement, if not financial help, from the Arab League, and in support of this contention it is pointed out that, when the famous leader of the revolt of the Rifs in 1926, Abd el-Karim, was being returned to France from exile on Reunion Island in May 1947, he escaped from the ship and found refuge in Egypt from whence much of the nationalist propaganda proceeds. In September 1950, a request was made by the Egyptian government to the International Authority of Tangier to establish a cultural office in that city. To this, objection was raised by the French, who saw in such an office merely a source of nationalist propaganda and contact work for the whole of the Mahgreb. French suspicions extend not only to the Arab League but to Britain as well in some degree, since it was felt that certain British officials in the Middle East encouraged the anti-French propaganda by Arab League leaders, and with the example of the forced withdrawal from Syria and Lebanon very much in mind, the French tend to see any outside support for Arab nationalism as a threat to their position. The problem of Algerian nationalism cannot, of course, be divorced from similar movements in Tunisia and Morocco, and the probable future independence of the former Italian colonies only tends to increase French concern over the growth of the nationalist movement.

The question of nationalism in the Mahgreb as a whole is a particularly complicated one. Along with all other colonial peoples the native population of North Africa feels (and with some justification) that it has been and is being exploited to the profit of the interests of the motherland. It is felt that, were independence gained, economic development would be

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directed entirely in the interests of the natives and that in consequence a rise in the over-all standard of living would be possible. The French answer to this argument is that without French capital, economic development could not possibly be carried on at its present level, much less be increased. Even a cursory examination of the French achievements and plans for Algerian development would tend to confirm this argument since the Algerian economy is geared so closely to the French market that serious dislocation would result were it removed. Moreover, of the funds presently being invested in Algeria the larger part is French government funds, being put into public projects such as dams, electric power stations and communications facilities. There is at the moment, and (barring unexpected discoveries of oil or minerals) will be in the forseeable future, little incentive for private capital investment, since the resources of the country are primarily agricultural. It is therefore very questionable whether private funds could be induced into Algeria were it to become an independent state.

The French administration also takes the view that there are not now a sufficient number of natives trained in government and administration to be able to set up a government and run an independent state. They argue that in an area where 90 per cent of the population is still illiterate it is impossible suddenly to give self-rule, particularly in view of the irresponsibility shown by other Arab nationalist groups in the Middle East. They point out that, were the French forced to withdraw now, there is strong likelihood that Algeria would not remain independent but would very shortly come under the influence of Russia, who has already expressed interest in the Southern Mediterranean littoral, if not by direct control then at least through locally sponsored Communist groups. It might, of course, be cogently argued that the French are themselves in large degree responsible for the low literacy rate and that it has been to their advantage to keep the rate down, but at the same time the economic and administrative arguments advanced by the French carry considerable weight.

There is, however, another aspect of the French position on the nationalist question which does not appear on the surface,

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but which is nevertheless of vital importance. It concerns the basic philosophy of French colonial policy. Unlike British policy which early developed the tradition of independence of the colonies from direct control from London, and foresaw at some time in the future independent status being reached by the colonies, French policy pursued an entirely different line. For France the *mission civilisatrice* became the all-important factor, but the civilization to be transmitted was that of France; the culture to be introduced was French culture. The culmination of a long period of tutelage for the colonial native was not conceived to be independence but rather the gift of French citizenship. It was assumed that, once having been exposed to the advantages of the French culture, no native would wish to continue his own cultural tradition. The cornerstone of the policy was assimilation, or, as it has been more recently stated, "association", and illustrations of the process can be adduced from any French colonial venture.

The early history of Algerian administration is an excellent case in point. Although there was a constant swing from centralized control to decentralized, a constant struggle of military and civilian authorities, the underlying motivation of a century of control has been assimilation. The movements and changes of administration which went on superficially were in great degree experiments to find how best the aim of assimilation might be carried out. The ambiguity of some parts of the most recent legislation on Algeria tends to show how deep rooted is this concept in the French outlook on the colonies. It must be pointed out, however, that the idea of assimilation has by no means worked always to the disadvantage of France or her colonial peoples, either. It has meant that the barrier between the French colonists and native peoples has been less difficult to overcome. If a native were willing to accept French civilization in its entirety, he became, for all practical purposes, a Frenchman. There were few limits to his associations with the French; he might rise as high as his abilities could carry him in the administration, and few social doors were closed to him. The ultimate goal was that every native should follow his example. The results were that, for a period at least, French

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policy was perhaps more successful than British. In contrast, Britain maintained a barrier between the natives, no matter how cultured, and the British citizen. If the native happened to absorb British culture and education (as so many did), no objection was raised, but, on the other hand, no conscious effort was made to force him to abandon his own traditions and culture.

It is only since World War II, however, that the full effect of these two policies has become apparent, where nationalist movements have finally grown strong enough to demand and receive independence from the mother country. Britain has on the whole been much better prepared than France to meet the situation. The British had been concentrating for a century past on the formation of a group within the colonial area capable of taking over the administering process when the colonial administrators left. France, on the other hand, having concentrated so much of her energies on the assimilation of the native population to France and French culture, is more likely to find the entire structure, which has taken so much time and effort to create, completely destroyed, when she is forced to withdraw by a nationalist movement which refuses to give up its native tradition for French civilization. British withdrawal from a colonial area is cushioned by the mechanism of the British Commonwealth. For France, however, if there is a breakdown of the assimilation policy, there is no alternative but complete withdrawal. It is possible that in time the French Union may provide something of an alternative, but, for it to do so, French colonial philosophy must change, for even the structure of the Union has been affected in part by it.

Today it is in the alternative to assimilation that the crux of the problem of Algerian nationalism lies; and yet it is precisely this question which will prove the most difficult to solve. The deplorable economic conditions, the grinding poverty, and the low standards of living are problems which can be and are being met by the Algerian administration in many effective ways. But no administrative plan or ordinance can solve the problem of the mutual distrust and suspicion of the French and the Arabs. On the one hand the French have resented the

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unwillingness of the Arab, the Berber and the Kabyle to give up his native tradition and customs for the culture of France, and, on the other, every move made by France is looked on by the Arab nationalist groups as just one more step in forcing the natives out of their own cultural mold and into that of France. The psychological tension resulting from this situation makes any rational solution of the problem considerably more difficult. An example might suffice to indicate how bitter and how deep is the distrust of the vocal minority of the nationalists toward the French. The writer was told by one ardent follower of Messali Hadj that it was his conviction that every action taken by the French in Algeria was part of a vast conspiracy to defraud the natives of their cultural heritage and to force upon them an alien culture. In consequence, he felt, the only course left open to any true Algerian was to thwart the administration at every possible turn; otherwise, the native population had no hope of ever gaining control of its own destinies. Obviously, such an extreme view cannot be taken literally, but the fact remains that the groups which have been educated, largely at French expense, have been made more keenly aware of their cultural history and heritage and are using their education to draw their fellow countrymen away from support of France.

It must be granted, of course, that there is today much to the French argument that these vocal groups are not representative of the people as a whole. The larger part of the native population is undoubtedly apathetic to the nationalist cause. The real threat to the French position by the nationalists is rather a long-run one. The extremist groups lose no opportunity to gain support by stressing the poverty and misery of a large mass of the people; the causes of this poverty are laid at the door of the French. Even though the French are undoubtedly working toward the economic improvement of the area, they are fighting a race against time. If the administration cannot show concrete results soon enough, popular apathy toward the nationalists may suddenly become popular support, strong enough to force the French out of Algeria. Another complicating factor has been the equivocal attitude of the French Communists. While, on the one hand, they are French and might be

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presumed to have French interests in mind, yet they have been very active in supporting an Algerian Communist party and in encouraging those groups seeking immediate separation from France. They present then, for the administration, a double source of embarrassment, for they tend to lower French prestige in the native eyes and actively combat official French policy. It is questionable whether the Communist doctrine could ever have very widespread support in the Islamic world, colliding as it does at as many places with Koranic law, but, nevertheless, should the Communists offer an immediate solution to the problem of the standard of living, there would be a strong temptation for Algerian nationalists to support them, if only on a temporary basis. The writer was assured by one nationalist that his group would have no hestitation in making use of Communist support in the struggle for independence, if it were thought that it would be of real value and if, after the goal had been attained, the North African leaders would be left to their own devices. It is the doubt on the latter question which restrains at least some of the nationalist leaders from more active coöperation with the Communists.

The nationalist segment of the native population suffers from the same difficulties which on a larger scale have beset the Arab League farther to the east. They have found it impossible to agree either on a program of action or on leadership. Almost the only point upon which there is general agreement is the dislike of the present situation, but there is no accord on the remedy. The MTLD under Messali Hadj stands for immediate and complete severing of the French tie; Ferhat Abbas and his UDMA followers make a more moderate demand for autonomy under French guidance and protection. These represent only two of many groups with variations on these views. The lack of cohesive demand or leadership naturally tends to weaken the movement as a whole, and much energy is wasted in a pointless struggle between the opposing parties. The French point this out as only further evidence of the fact that the native peoples have not yet arrived at a stage of political development sufficient to set up an autonomous government. The nationalist retort is, as might be expected, that this is merely a delaying tactic on

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the part of the French, who are doing everything possible to keep the native groups separated and hence impotent. The immediate significance of the nationalist movement in Algeria is not the long-run goal of independence but rather to what extent the nationalists can force concessions from the French through popular pressure and to what extent nationalist activity is hampering the development of public projects which may in the short run seem beneficial to France but which in the long run will undoubtedly improve the lot of the entire population.

It is indeed a matter of some speculation whether or not Algeria could remain a single unit were the French administration to be removed. The peoples which make up the native population are by no means of the same background or customs. The Kabyles are on the whole a sober, hard-working people deeply attached to the family and to the land and little given to violent emotional uprising. The Arabs of the mountainous areas are nomadic, caring little for the responsibilities of a settled life, and have much of the proud superiority of the desert Bedouin. The Berbers, on the other hand, share the pride of the Arabs and resent any sort of domination. In a very real sense the disunity of the nationalist movement is the disunity of the native population. The idea of a "nation" is to them a foreign concept for which they are not willing to struggle; even the brotherhood in Islam does not provide a broad enough basis for united action. As one observer states it,

> The idea of an Algerian nation remains precarious and superficial, because it is a concept foreign to the native mind; it does not come to them from inside, from their deep desire to live together; it is imposed on them from without, rather suffered, than understood and felt as a necessity. . . . From time immemorial the Berbers have been allied, more or less successfully, against their conquerors, whoever they may be—Phoenecians, Romans, Vandals, Byzantines, Arabs, or Turks, but they have never been firmly enough allied to force them out and form a nation of their own.[6]

Though the nationalists cannot deny that these internal divisions do exist, they feel that the disunity could be overcome under a

[6] A. Pellegrini, *L'Islam dans le monde* (Paris, 1950), p. 196.

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native government. But with the history of Algeria in mind and the examples of discord among the Arab peoples of the Middle East today, the outside observer tends to remain highly skeptical of the nationalist leaders' power to do today what no native ruler for more than a thousand years past has been able to accomplish.

4

Granting that the French administration can keep under control the rising claims of the native Algerians to self-government, what is the present—and possible future—position of Algeria among the French territories beyond the *Métropole*? Certainly, the status of Algeria today, even in the light of the changes made by the Organic Statute, can at best be stated as unclear and paradoxical. Basically, the confusion about the position of Algeria in the French scheme derives from the fact that the government at home was attempting to do three things at once with Algeria and succeeded in none of them. The primary concern of France after the war was, of course, to retain control of Algeria, preferably through much the same system of a governor general and the semi-autocratic rule which had hereto prevailed. But it was evident that the pre-war governing system could not be continued without a complete overhaul. The wartime years and the gradually rising nationalism, encouraged by the provisions regarding dependent peoples of the United Nations Charter, had brought many changes in the thinking of the Algerians. The resulting demand for complete independence or at least autonomous status forced immediate action in revamping Algeria's government. But the growing concept of the French Union further complicated Algeria's position. Was Algeria to be considered among the overseas territories, the overseas departments, the associated territories, or the associated states? In view of the fact that its three departments were to be created as part of France, Algeria might even have been considered as an integral part of the homeland. Some concessions to the feelings of the nationalists had to be made; yet, at the same time, the preëminent position of France had to be maintained and restated for the outside world.

During the constitutional debates of 1946 the question of the

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position of Algeria was hotly argued. In favor of the overseas department position, it was maintained that Algeria was the most closely assimilated of all the overseas areas and had long been organized along lines of French local administration. On the other hand, it was pointed out that Algeria was much more than merely three overseas departments. These departments were part and parcel of a single unit, possessing an international personality and local representative bodies and placed under the authority of a governor general, which was obviously not the case of other French departments. Moreover, the majority of the people of Algeria were of a distinctly non-French origin, possessing neither the same degree of cultural advancement nor even the same personal status. Finally, the problem was placed in the hands of the *Conseil d'Etat* for interpretation, and, in an opinion issued March 27, 1947, the Council decided that Algeria came under the classification of overseas departments. This position is officially stated in Article 1 of the Organic Statute: "Algeria constitutes a group of departments, endowed with a civil personality, financial autonomy, and a special administrative form, defined by the articles of the present law." (A later article suppresses the Southern Territories, making them into departments also.) Partially as a gesture toward nationalist feeling, the Algerian Assembly was created and the powers of the Governor General reduced below those of the corresponding officials in the overseas territories. But as we have seen above, the powers of the Assembly, although fairly extensive in the regulatory field on paper, are in practice limited by the power of the Governor General to demand reconsideration and to refuse homologation of an Assembly decision.

It readily becomes clear that from this legislation the position of Algeria is almost a paradox. It is a group of departments with a personality, an assembly, and financial autonomy, yet the decisions of its representative organ can be vetoed by the Governor General! The twin pulls of assimilation on one side and nationalism on the other have forced a compromise which does not point to satisfaction for either one side or the other. For the nationalists it does not go far enough; for many of the *colons* it goes too far. Even the safeguard of maintaining the

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first college of the Assembly as a predominantly French body has not entirely quieted the colonists' fears. The problems of Algeria today may be likened in some degree to that of India before the break from Great Britain; unfortunately, however, Algeria has not reached the stage of political and social development of India, nor has France the device of the Commonwealth to fall back on. Whether or not the French attempt to give self-government with one hand and to hold it in check with the other will be successful in the long run remains to be seen. Much depends on the speed and direction of economic development, as concrete proof that the life of the natives will be improved under the new administrative arrangements. But this proof will have to come quickly and effectively; otherwise, the relatively small group which today turns a receptive ear to the nationalist cry for complete separation from France will soon swell to an irresistible force, determined to work out its destiny with its own hands.*

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* The concluding part of this article will appear in the December issue of the QUARTERLY.

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# THE UNION WORK PERMIT

THE work permit is a relatively unexplored phase of union activity. Detailed and scholarly works usually omit the subject entirely or give it but passing mention, and the same is true of standard texts in the labor field. References to the work permit have appeared most often in public investigations and documents in connection with the outright racketeering to which the use of the permit easily lends itself. There has been, consequently, little disposition to think of permits except in this unfavorable connotation. Perhaps for this reason also, the permit has never really been "respectable" even in union circles so that union publications are almost bare of material on the subject. For example, that pioneer and exceptional index to union documents, *Trade Union Publications*,[1] contains only a handful of references to work permits. Actually, a count of the unions named later in this article shows that the locals of over two dozen Internationals have used permits at one time or another. Though the Labor Management Relations Act of 1947 outlaws the closed shop in industries in which labor relations are subject to federal regulation, the closed shop has persisted, and with it the use of work permits. The present extent of the closed shop is not exactly known, but in certain industries, such as the building trades, it is doubtful that there has been much change in these practices.

The work permit system, as the designation is used here, refers to an arrangement whereby unions, for a fee, give permission to *nonmembers* to work in an enterprise in which hiring or continuation in employment is controlled by the union. Though the union's job control is usually via the closed shop, permits have also been used under the union shop. The permission is usually evidenced by a "work permit" card, but the degree of formality and the terminology vary. Some mari-

[1] Lloyd G. Reynolds and Charles C. Killingsworth, *Trade Union Publications* (3 vols., Baltimore, 1944-45).



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time unions, for example, refer to their permits as "trip cards" because they are valid for only one voyage. Many unions also issue permits to *members* or applicants—such as those which use permits during a probationary or apprenticeship period; or for applicants pending investigation; or for members of one local who wish to work temporarily in the jurisdiction of another local of the same International but who do not desire an inter-local transfer which might result in a loss of benefits available in the home local; or for those who desire an inter-local transfer but must work on permit in the new local pending a checkup of membership status with the original local. This use of permits for members and applicants will not be considered here.

An interesting aspect of the permit system which started in the early 1930's has been the use of permits to exclude from the union individuals considered undesirable for political reasons. Thus, as an aftermath of the disputes over communism in the needle trades, the AFL Hatters in 1933 issued permits rather than membership cards to about 150 applicants who had previously been members of the left-wing Needle Trades Workers Industrial Union.[2] And when Kirsten Flagstad returned from Norway at the end of World War II, her membership in the American Guild of Musical Artists was not restored because of charges of friendliness toward the Nazis—instead she was given a work permit.[3] The aim in these cases has been not to control the access of these persons to employment, which is the usual purpose of the permit, but to preclude them from taking an active rôle in union affairs by denying them membership. This use of the permit, however, is apparently rare.

The purpose of this article is to throw some light upon the origins and history of the use of work permits, and their justification in the eyes of unionists. The main sources of information are the records of court cases and union documents. In many instances, however, union officials have supplied information to the author with the understanding that their names

[2] *Schein v. Rose,* 12 NYS 2d, 87 (1939); Joel Seidman, *The Needle Trades* (New York, 1942), p. 183.

[3] *The Washington Post,* March 31, 1947, p. 1.

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would not be publicly connected with the data or viewpoint expressed—in such instances the source will be indicated simply as " Interview ".*

*Permits under Union Constitutions*

Comparatively few unions make any mention of permits in their constitutions. So few are these, in fact, that it is worth while to set forth the provisions in those cases in which the permit is accorded more than passing notice.

There are two unions which specifically ban the permit. In the Plumbers:

> No permits shall be given or issued to anyone (by any local union or representative thereof) who is not a member of the United Association or who has not been accepted by the local and is paying an application fee for admittance to the United Association.[4]

In the Operating Engineers:

> No . . . permit . . . shall be issued to or used by any person who is not, at the time, either a member of the International Union of Operating Engineers or an applicant for membership therein and the attempted issuance of such a permit above referred to by any officer or employe of the organization . . . shall be unauthorized, null and void.[5]

There are six unions which sanction the use of permits and give some indication as to the purpose of the permit.[6] The Food and Tobacco Workers provides that:

* The author is Chief, Industrial Analysis Branch, National Labor Relations Board. The views expressed in this article do not, in any way, represent the views of the National Labor Relations Board. The bulk of the material contained herein was collected during 1945-1947 when the author was associated with the Labor Organization Study at Johns Hopkins University under the direction of Dr. William M. Leiserson who provided much intellectual stimulation for this work; the views remain, however, those of the author.

[4] Plumbers, *Constitution*, 1946, 153.

[5] Operating Engineers, *Constitution*, 1948, XV, 3(h).

[6] There are four unions which provide for the use of permits but give no indication of motive in the constitution. These unions are the UAW-CIO (1949, 13-23); the Glass Bottle Blowers (1946, XVI, 2); the Coopers (1949, 164); and the Photo-Engravers (1948, General Laws, Sec. 1).

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> Should conditions not warrant accepting into membership certain workers in a seasonal industry, local unions may accept permit fees. The minimum permit fee shall be 50¢ per week, not to exceed eight weeks. Fifty per cent of all permit fees shall be sent monthly to the International Office of the Union. No permit fee collected may later be applied to initiation fee or dues. If working under union shop, or closed shop agreements, workers must join the Local Union after working more than eight weeks.[7]

In the Distillery Workers:

> Any person desiring to work in the industry on a trial or temporary basis shall upon application . . . be granted a temporary work card. The local union shall pay to the International Union the sum of fifty (50¢) cents per month for each temporary worker. . . . Should a person holding a temporary work card at any time violate any of the provisions of this Constitution, Constitution of the local union or any agreement in effect at the time of issuance of said card, or entered into thereafter, this card shall immediately become null and void and he shall forfeit all rights and privileges thereunder.[8]

The Inlandboatmen's Union (Seafarers) states:

> In order to supply demands upon the Division in cases of temporary expansion of employment, or seasonal increases in employment, without overloading the Division with members that cannot be taken into the industry with a reasonable assurance of employment, work permits may be issued by the Division to nonmembers under a uniform system governed by uniform rules, such rules to be administered by the Executive Council subject to ratification by the various Divisions.[9]

The Marine Firemen formerly made only brief reference in the constitution to permit men, in a clause providing that permanent permit holders were to be eligible for membership in rotation as members died or retired.[10] In 1945, however, numerous clauses were inserted relating to permit men. These clauses put the permit holder in the status of an applicant on

[7] Food and Tobacco Workers, *Constitution*, [1949], XII, 4(e).

[8] Distillery Workers, *Constitution*, 1946, VI.

[9] Inlandboatmen, *Constitution*, 1944, VI, 4(c).

[10] Marine Firemen, *Constitution*, 1944, IV, c.

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probation. As such, he was given a status inferior to that of regular members in union affairs, allocation of jobs, and so on.[11] The satisfactory conclusion of the probationary period, however, does not automatically confer membership upon the permit man, for the constitution still provides that, "In the event shipping conditions do not justify the addition of unlimited permit men, a list shall be created at Headquarters, and as book members die, or retire, such permit men shall become eligible for membership in rotation." [12]

The Brewery Workers, on the other hand, who formerly provided for the use of permit men in the busy season and protected the membership against layoffs due to the use of permit men,[13] felt obliged to remove all references to permit men after passage of the Taft-Hartley Act. The new provisions refer only to temporary and seasonal employees and provide for their admission to the union. Since closed shop contracts which were made before the Taft-Hartley Act may still be valid, however, the constitution also provides that these workers need not be admitted in such cases.[14]

Last in this group of six unions is the Asbestos Workers, with the following provision:

> Permits shall . . . be issued only when International membership of desired classification is not available from within the ranks of the International. . . .
>
> Permit workers shall not pay dues, assessments or other moneys, including donations, nor shall the Local Union or its officers or membership accept same.[15]

The constitutions tell only part of the story, however, for, in the absence of specific provisions in the formal documents governing the International and its locals, the permit system may

[11] *Ibid.*, 1945, XXXII, *passim*, and XXXIII, 4, 11, 13, 23, and 28.

[12] *Ibid.*, 1945, XXXII, Sec. XI.

[13] Brewery Workers, *Constitution*, 1946, IV, 32.

[14] *Ibid.*, 1948, IV, 33(b).

[15] Asbestos Workers, *Constitution*, 1942, XIII. It will be noted at once that this provides for *free* permits, and so does not come strictly within the orbit of the permit system as defined herein. It has been included, however, because it will be shown later that locals do violate this union law.

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arise on the initiative of the locals, persist in the face of International disfavor, and even be put under International control or abolished without any constitutional changes being made. There is ample room for the International to step in on grounds of violation of the general principles of unionism, and of the general objective of the union to *organize*, as well as the specific or implied obligation of each local to *organize* its allotted territory. Further grounds exist where the International constitution requires that each local give preference in jobs to members of other locals before permitting the employment of nonunion workers—though this has no effect in a period of full employment.

Before proceeding to set forth some details on the operation of the permit system in a half-dozen unions which have left more than a scanty record of such usage, it might be well to name, for the record, other unions to which references to the use of permits could be found. These unions are: Amalgamated Clothing Workers; Carpenters; Marble, Slate & Stone Polishers; Sailors' Union of the Pacific; Marine Cooks; National Maritime Union, AFL Longshoremen; Hotel & Restaurant Workers; Retail, Wholesale, and Department Store Union; Pressmen; Bridge, Structural and Ornamental Ironworkers; Teamsters; Pocketbook Workers Union of New York; C.I.O. Longshoremen; Painters; C.I.O. Auto Workers; Seafarers; and Hod Carriers.

## *The Permit in Individual Unions*

### *Asbestos Workers*

One of the unions which was mentioned in the section on constitutions as having a provision for permits was the Asbestos Workers. The provision allowed for permits, free of charge, when members are not available for jobs. This clause is the concrete embodiment of long-standing custom. It has been the practice in this union to get the permit men from the other building trades unions—particularly the trowel trades. During the First World War, the Operative Plasterers wanted the other building trades unions to recognize each other's cards for the period of emergency, " but the chance for augmenting their

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membership and enhancing their treasuries prevailed over the idea of the recognition of the cards of the [building trades unions] . . . which had little or no work in the war. . . ." [16] The Asbestos Workers, however, saw some virtue in the plan for "it would be better to consent to accept the cards of other union men . . . than to take men into . . . [the Asbestos Workers] promiscuously." [17] In May 1918, the Asbestos Workers reached an agreement with the Operative Plasterers whereby the members of the latter organization were given permits as "emergency workers", to be employed where no members were available. They were also to pay two per cent of their earnings for the permits,[18] but this section was inserted only because the Operative Plasterers insisted that they did not "want anything for nothing", and the Asbestos Workers locals were instructed by their International not to collect the assessment.[19] In 1940, these two organizations entered an identical agreement to cover the Second World War period.[20] Under this system, there were, during the past war, three times as many permit workers as there were regular members working in the jurisdiction of the Asbestos Workers. They worked under the same conditions of wages and contract benefits as the regular membership.[21]

Even with the long tradition of free permits, there have been locals which have charged fees for permits. It was in 1937 that the unwritten law for free permits was put into the constitution, because several locals were found to be charging permit fees. By the time of the 1942 convention a few locals and business agents were violating the spirit of the law by accepting "donations" or "presents" from permit workers. Therefore, in 1942, the 1937 clause was rewritten to bar not only fees but the acceptance of donations, gifts, and so on, in any form whatever. There have been one or two cases of violation which have

[16] Asbestos Workers, *The Asbestos Worker*, July 1946, p. 4. [17] *Ibid.*

[18] *Ibid.*, pp. 4-5. This information, and that under notes 16 and 17, are from an article in the Operative Plasterers *Journal* (May 1946) which is reprinted in the cited source and contains the text of this and the identical 1940 agreement.

[19] *Ibid.*, p. 6; and Interview.

[20] *The Asbestos Worker*, July 1946, p. 5. [21] Interview.

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been promptly put down by the International officers. The violations, which are infrequent, are of two types. The first is where the local charges a fee in the honest belief that it is entitled to some payment for servicing the permit workers. The second type is where the fees or gifts are a matter of personal graft and do not appear in the local's financial records at all. In either case the International has stepped in and forced the return of the money. Because some of the permit workers were transients and could not be located, the amount which was due to them was turned over to the Red Cross. There has been one case of expulsion of a local union official for repeated violations of this section of the constitution,[22] but there is evidence that collections from permit holders have not been completely stamped out.[23]

*Plumbers*

The 1924 convention of the Plumbers witnessed an attack by the International officers on the permit system which had developed in some of the locals. An entire section of the *General Executive Board and Officers Report* was devoted to its denunciation on the ground that the system was in violation of union principles; that it created a source of nonunion labor which was then available to nonunion firms to help them siphon off work from union employers; that it undermined the union's apprenticeship system and was thus unfair to the locals which abided by the apprenticeship rules; and that it provided a ready source of strikebreakers when the occasion arose.[24] The convention then unanimously adopted a constitutional amendment banning permits,[25] which has been cited above in the section on constitutions. Nevertheless, as late as 1942, permit fees were being collected by at least one local of this union.[26]

22 Interview; *The Asbestos Worker,* October 1942, pp. 25, 50-51.

23 *International Association of Heat and Frost Insulators and Asbestos Workers, Local No. 7, AFL,* 92 NLRB No. 134; *Sprinkman Sons Corporation,* NLRB, Intermediate Report 509, May 1951.

24 Plumbers, *Proceedings,* 1924, p. 75.

25 *Ibid.,* p. 145.

26 *Midwest Piping and Supply Co., Inc.,* 63 NLRB 1060.

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*AFL Electrical Workers*

The permit system in various locals of the AFL Electrical Workers has had a long history. Harold Seidman mentions permits as a source of income before 1915 for "Umbrella Mike" Boyle in Chicago.[27] More detailed information is available, however, for Local 3 of New York. This local started its permit issuance late in 1916. At first the permits were numbered (thus permitting a checkup) but before the end of 1917 the numbering system was dropped and thereafter there was no system or order in the issuance or collections.[28] The local averaged 3,000 to 4,000 men on permit each week in 1918-20; while the actual membership was about 3,800, compared to something over 12,000 electrical workers in New York.[29] The permit fees were $2.50 per week for journeymen and $1.00 per week for helpers, compared to $2.00 and $1.50 per month in dues, respectively, for members in addition to the initiation fee of $75.00.[30] The payments of the permit men had to be made weekly at union headquarters, where sometimes hundreds lined up to hand over the fee to several cashiers who raked in the money helter-skelter.[31] The union admitted in December 1921 that permit fees had been "a large source of revenue" in the past three years.[32] The permit cards were revoked when members were unemployed,[33] and this condition was stated on the card face.[34]

Repeated attempts by the permit men to join Local 3 failed —they were simply told that the books were closed,[35] whereupon about 1,000 of them formed a rival organization.[36] The rival did not last long because, during the course of the com-

[27] Harold Seidman, *Labor Czars* (New York, 1938), p. 57.

[28] New York State, *Joint Legislative Committee on Housing, Transcript of Testimony*, December 1921, pp. 4191-92, 4253-54; hereinafter referred to as *Lockwood Committee Transcript*.

[29] *Ibid.*, pp. 4240, 4242; N. Y. State, *Intermediate Report of the Joint Legislative Committee on Housing*, Legislative Doc. No. 60 (1922), p. 51.

[30] *Lockwood Committee Transcript*, pp. 4184-85.

[31] *Ibid.*, pp. 4192, 4294, 4298.

[32] *Ibid.*, p. 4185.

[33] *Ibid.*, p. 4287.

[34] *Ibid.*, p. 4292.

[35] *Ibid.*, pp. 4241, 4245, 4285, 4293, 4297.

[36] *Ibid.*, p. 4240.

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mittee hearings which exposed these practices, Local 3 admitted most of the rival union's membership.[37] This did not, of course, help the balance of the permit men (to be more exact they should be called ex-permit men because the local discontinued permits) who could still not get into the union or work with union men.[38] The base of the power of Local 3 was its substantial control over the more desirable and remunerative work —the building construction field. Unless the nonunion worker was willing to pay the permit fees he secured only the lower-paid repair work (which was nonunion) or work at lower pay for nonunion contractors. Just as it was a better cash proposition to be a member rather than a permit man, so it was better usually to be a permit man than to do nonunion work.

Apparently the local discontinued the use of permits for a few years, but by 1925 the system was back in full swing, with the same scale of fees. By this time the local had some 6,000 members and its books were closed, though there were 12,000 to 17,000 electrical workers who were not members, and in 1926 the union had over 5,000 membership applications on file.[39] The permit system evidently was still in operation in New York in 1938,[40] but in 1941 it was reported that the International had succeeded in securing its abolition.[41] How permanent this "abolition" was in New York is not clear, but the International found its troubles on this score increased during World War II. One small local, with about 75 members, found that the war brought several thousand jobs into its jurisdiction. Most of the new jobs were given to nonmembers on permit. The local treasury bulged and the members wanted to divide up the extra money among themselves—but the Inter-

[37] *Ibid.*, p. 4247.

[38] N. Y. State, *Final Report of the Joint Legislative Committee on Housing*, Legislative Doc. No. 48 (1923), p. 35. As will be noted later, the discontinuance was only temporary.

[39] William Haber, *Industrial Relations in the Building Industry* (Cambridge, 1930), pp. 203-4.

[40] Article on "Building Construction" by William Haber, in *How Collective Bargaining Works*, Twentieth Century Fund (New York, 1942), p. 212.

[41] Sumner H. Slichter, *Union Policies and Industrial Management* (Washington, 1941), p. 70.

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national stepped in and took over the local to hold the funds for the benefit of all.[42] During this period another local of this union became involved in a court case over the issuance of permits.[43]

On March 23, 1943, the International found it necessary (or at least desirable) to issue an order to all its locals forbidding the issuance of work permits for fees, and providing that in the event the local was temporarily short of members to supply a job, then " temporary working cards " could be issued by the local, with absolutely no charge therefor.[44] Nevertheless, there is reason to believe that some locals still use permit systems which they have managed to conceal from the International,[45] while the continuance of permits under the guise of " support money " in 1947 has been noted in an NLRB case.[46]

*Operating Engineers*

The trouble over permits in the Operating Engineers apparently first arose mainly over the refusal of some locals to recognize the cards of men from other locals—thus forcing the latter's members either to work only in the home local's jurisdiction or to pay a permit fee to work elsewhere. Also involved was the question of permits to nonmembers, but the action of the union at the beginning put the emphasis on the former problem. The matter first came to a head at the 1924 convention, at which President Huddell made a lengthy report on the permit system and the difficulties which he had encountered in trying to stamp it out. Huddell pointed out that the permit system had led to graft and corruption which disgraced the International and the whole labor movement; that it led to closed locals and failure to organize the engineers; that nonmembers worked on permit in Pittsburgh and Cleveland while members from other areas as well as members from locals in these cities walked the streets; and that even friendly employers complained that they could not hire real union members.[47]

[42] Interview.

[43] *United States v. Lombard, et al.*, 54 F. Supp. 537 (1944).

[44] Interview.

[45] Interview.

[46] *Public Service Company of Colorado*, 89 NLRB No. 51.

[47] Operating Engineers, *Proceedings*, 1924, p. 295.

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The account of the battle of Huddell gives an interesting picture of the evasions and delaying tactics used, for example, by the Pittsburgh local, in trying to hold onto its permit card system both for members of other locals and for nonmembers. When Huddell wrote to this local about the complaints he received, requested an explanation, and instructed the local to take the men into the union, he received a conciliatory reply indicating that the local was obeying his order. Actually all the local had done was to change the wording on the permit card. Because the local president coöperated with Huddell in the attempt to kill the permit system, he was defeated when he ran for reelection. Evidently under the influence of the local business agent, the local then fined and suspended the ex-president. On-the-scene investigation by the International showed 75 permit men—over 25 of whom were nonmembers. The local was ordered to admit them, but expressed doubts as to their fitness for membership. Huddell answered:

> You state that you have adopted a policy of investigating these men very carefully as to their character; meaning, the men that you are to take in. Well, you did not investigate their character when you put them to work and accepted their permit money, but now that you are ordered to accept them as members, you are going to start investigating them. As far as their being examined is concerned, as to their qualification, our General Executive Board decided that their employment operating machinery was sufficient to guarantee of their qualification as engineers, and that they had stood a practical test and must be taken into your Local Union.

The permit system in this local was not ended until the International ousted the local officers, revoked the local's charter, and set up a new local.[48] Huddell's report was approved by the convention, which then adopted a recommendation for the setting up of a transfer system whereby locals which needed men for jobs, or which used nonmembers, were to be compelled to accept transfers from other locals.[49]

There were still locals, however, which were addicted to the permit system. In 1929, Local 403 of New York was placed

[48] *Ibid.*, pp. 301-7; quotation is from p. 305. [49] *Ibid.*, p. 334.

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under International supervision when it refused to take in new members. Instead, permits were issued by the local when workers were needed, they were revoked when work slacked, and the members "bumped" the permit men. This system led to the formation of a dual organization of the permit men.[50] Still later on, various personages of the Operating Engineers were involved in court cases involving the issuance of permits.[51] Finally, in 1944, the International unanimously adopted the absolute ban on the issuance of permits to nonmembers, as noted in the section on constitutions. Despite this ban, it is evident from a recent NLRB proceeding that the use of permits in the last few years has not been unknown.[52]

*International Alliance of Theatrical and Stage Employees*

The troubles of the IATSE with the issuance of permits started at an early date. Some locals were evidently in the habit of issuing "letters" to nonmembers to enable them to travel under the guise of being union men. In 1912 a provision banning this practice was inserted in the by-laws.[53] This was not a sufficient deterrent, for in 1915 a fine of not less than $100 was added.[54] This clause, with minor variations in wording and an increase in penalty, has remained unchanged.[55]

Up to 1919 the concern was apparently only with nonmember travelers, but about this time the other nonmembers also came into the picture. In this year the constitution was amended to provide that, where a local was unable to fill job vacancies, nonmembers could be employed only if members were not available from other locals.[56] This clause remained unchanged, except for an increased penalty, up to 1930.[57] By

[50] *The International Engineer,* July 1929, p. 53.

[51] *United States v. Fuller, et al.,* 51 F. Supp. 951 (1943); *People v. Fay et al.,* 43 NYS 2d, 826 (1943).

[52] M. A. *Gammino Construction Co.,* NLRB, Intermediate Report 458, April 1951.

[53] IATSE, *Constitution,* 1912, *By-Laws,* IV, 9.

[54] *Ibid.,* 1915, IV, 7.

[55] In 1936 it was Sec. 16 of Art. 19 of the constitution proper.

[56] IATSE, *Constitution,* 1919, *By-Laws,* 2-20.

[57] In 1924 the penalty was increased to $50.

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this time, the depression and the progress of the "talkies" were affecting the stage hands' locals—there was unemployment in this field while the locals of moving-picture machine operators were training nonmembers on permits. This was a source of complaint for the stage hands, whose locals introduced resolutions at the 1930 convention calling upon the projectionists' locals to give preference in such training to the unemployed stage hands. Not only were these resolutions passed,[58] but a sentence was added to the constitutional clause noted just above. The following was put in before the penalty sentence: "In every locality where it is possible to train unemployed Stage Employes into Motion Picture Operators, the sister Motion Picture local shall be obligated to do so." [59]

At the same convention, there was an interesting byplay on the permit system itself. A resolution was introduced referring to the failure of the International to receive any financial return from the permit holders. It was proposed that a per capita tax of two per cent of earnings be levied on the permit holders. The resolution met a committee nonconcurrence, whereupon Delegate Richard Walsh asked for an explanation. The committee replied that "by accepting tax in any form whatsoever, the parties taxed could be construed as part of the Alliance." Walsh said that anyone who was permitted to work in IATSE jurisdiction should be taxed, but the majority agreed with the committee in its determination not to allow even a shadow of a claim to union rights for the permit men.[60]

At the 1932 convention, the report of President Elliott showed great concern over the dual organizations which were springing up, and which he attributed, in part at least, to the use of the permit system, in that the permit men turned to the dual organizations when they were unable to secure work through the IATSE locals.[61] Unemployment was growing among the membership, and there were again attacks on the permit system as in 1930. The stage hands again asked that their unemployed be taught projection work and that the permit men be ousted; another group asked for a constitutional

[58] IATSE, *Proceedings*, 1930, pp. 116-17, 119.

[59] *Ibid.*, pp. 125-26. [60] *Ibid.*, pp. 119-20. [61] *Ibid.*, 1932, p. 38.

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limit on the number of apprentices in a confused resolution linking this to the permit system; a third resolution demanded that the penalty for the use of nonmembers, before local and other unemployed members were placed, be raised to not less than $500 for each offense; while a fourth resolution called for an open and compulsory reporting of the number of members and permit men employed and unemployed in the jurisdiction of each local.[62] The Grievance Committee made no report on the aforementioned resolutions, but instead brought in a short resolution of its own, calling simply for the abolition of the permit system. This committee resolution was passed, but not until after a "heated and lengthy discussion" between the delegates of New York City Local No. 1 and those of New York City Local No. 306, the latter being one of the most notorious users of permits.[63]

At the 1934 conclave President Elliott happily reported the abolition of the permit system, in accordance with the mandate of the previous convention. He stated that the permit men had been mostly registered with the International office as "junior members" or "apprentices", thus keeping them out of the dual organizations.[64] The majority of the delegates, however, did not share Elliott's optimism, for a resolution was brought in stating in the "whereas" clause that some locals had registered "a considerable number" of "juniors" and "apprentices"—indeed, sometimes more than the regular members. The resolution called for a limit to "juniors" or "apprentices"—not over one to each five regular members and not more than twenty for any local. This resolution was adopted in the face of an adverse committee report. During the discussion, the "junior" or "apprentice" system was called a subterfuge to defeat the action of the previous convention; while a District of Columbia delegate who opposed the resolution said: "The apprentices in the organization I represent have been there for eight years, and the only reason we have not made them members is we wanted to be sure we would continue to have two men in the booth." This same delegate also wanted to know if the resolution would be retroactive in its

[62] *Ibid.*, pp. 120-23. [63] *Ibid.*, p. 124. [64] *Ibid.*, 1934, p. 35.

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effect, but he received no direct answer.[65] Subsequently, the General Executive Board decided that the resolution had no retroactive effect,[66] thus permitting all existing "juniors" and "apprentices" to remain without regard to number or proportion.[67]

Despite Elliott's 1934 report on the "abolition" of the permit system, President Browne's 1936 report carried the story of the taking over by the International of Chicago Local 110 after the death of the business manager Thomas Maloy—and the story included hundreds of permit men. Browne also reported on how he had cleaned up Local 110,[68] but in 1939, three years later, there were still permit men in this local.[69] It was not until Richard Walsh took over the presidency of the International that the permit system in this local was abolished when 274 men, many of whom had been on permits for as long as 20 years, were admitted to the local.[70] Through the action of Walsh, the permit system in St. Louis Local 143, which had also continued in violation of the union law, was wiped out when part of the men were admitted and the rest were registered as apprentices.[71]

While Walsh was acting against the permit system in various locals, World War II brought conditions which raised a de-

[65] *Ibid.*, pp. 127-28; the long-term apprenticeship was evidently an honorable old custom in IATSE, for Baker reported in 1933 that apprenticeship was then completely under local control, so that some men had been apprentices for 25 years "and can do nothing to improve their status." Robert Osborne Baker, *International Alliance of Theatrical Stage Employes and Moving Picture Machine Operators of the United States and Canada* (Lawrence, Kansas, 1933), p. 22.

[66] IATSE, *Proceedings*, 1936, pp. 104-5.

[67] At about this time two court cases arose in which the "junior" members, who had formerly been permit men, sued for admission to full membership and were successful. See *Cameron et al. v. IATSE Local No. 384*, 176 A. 692 (1935), affd. 183 A. 157 (1936); and *Collins et al. v. IATSE Local No. 244*, 182 A. 37 (1935).

[68] IATSE, *Proceedings*, 1936, p. 40.

[69] *How Collective Bargaining Works*, p. 840, note 59.

[70] IATSE, *Proceedings*, 1944, pp. 49-50.

[71] *Ibid.*, pp. 51-52. The 1942 convention had, meanwhile, amended the constitution to limit junior or apprentice membership to three years, after which a vote must be taken to admit the man or exclude him entirely; *ibid.*, 1942, pp. 118, 243-44.

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mand for a method of protecting the locals against an increase in their membership which might prove troublesome after the war. Members were being called into service, the constitution limited the number and proportion of workers who could be classified as "juniors" and "apprentices", and put a three-year limit to these classifications. At the 1942 convention a resolution was introduced calling for the issuance of permits to cover the jobs of members who enlisted or were drafted into the "Armed Forces or Industrial field", which the convention referred to the General Executive Board.[72] In preference to allowing the use of permits for this purpose, President Walsh won approval of his recommendation for the institution of a "War Emergency Working Card" which would be revocable upon demand and be free of any fees except the dues and assessments paid by regular members.[73] Although President Walsh reported to the 1944 convention that this emergency card system was working satisfactorily,[74] it was also disclosed in January 1943 that 3,160 members had entered the Armed Forces whereas only 300 of the emergency cards had been issued.[75]

It is not possible to say with certainty that the difference between 3,160 and 300 is accounted for by the use of permits, for it is possible that some of the jobs were war casualties; on on the other hand, in some localities the war meant more job opportunities. It is significant that in January 1945 the General Executive Board had to order the discontinuance of the use of permits by a Hollywood local,[76] and a year and a half later had to take action in a Spokane local in which the majority of jobs were filled by permit holders.[77] Meanwhile, in February 1946, the General Executive Board directed an investigation of the "rumor that some, if not all, Hollywood Studio Locals were . . . working non-members under the guise of so-called permit systems."[78] President Walsh's report to the 1946 con-

[72] *Ibid.*, pp. 194-95.

[73] IATSE, *General Bulletin*, #315, July 1942, pp. 5-6; IATSE, *Proceedings*, 1944, p. 57.

[74] *Ibid.*, p. 57. [75] *Ibid.*, p. 158. [76] *Ibid.*, 1946, p. 187.

[77] *Ibid.*, pp. 94-95. [78] *Ibid.*, p. 205.

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vention showed great concern with the persistence of the permit habit. He pointed out that the International did not have the staff to police each local, so that the situations came to light only after complaints from the excluded persons, sometimes accompanied by threats of legal action or affiliation with other unions. The threat of legal action was not regarded as an empty one by Walsh, for he noted to the delegates that some courts looked with disfavor upon closed shop agreements when they were combined with a closed union.[79]

At the same time that some locals were using the permit system in contravention of International law and policy, other locals which desired to stay within the law were having difficulty satisfying their job market within the limitation placed on the number of apprentices and juniors by the constitution. The 1946 convention, therefore, approved a constitutional change which gave the General Executive Board of the International the authority to permit enrollment by the local of additional apprentices and juniors upon a local petition showing the need for such action.[80] In order to prevent this change from becoming the vehicle for disguised permits, the General Executive Board early in 1947 decided that a local requesting such permission has to supply certain information on the number of regular members and apprentices or juniors, the number of regular jobs it has to fill, and so on, and, most important, has to commit itself to embodying in the local constitution and by-laws a provision that all additional apprentices and juniors would *automatically* become members after serving three years as such.[81] Under these conditions several locals have been granted permission to enroll additional apprentices or juniors.[82]

Despite the vigilance and warnings of the International, however, permit situations continue to crop up,[83] and require International action to secure the admission of the permit men

[79] *Ibid.*, pp. 94, 95.

[80] *Ibid.*, pp. 353-54.

[81] *Ibid.*, 1948, pp. 184-85.

[82] *Ibid.*, pp. 185, 192.

[83] *Ibid.*, pp. 268-69; *Carlie Taylor, et al. vs. Local Union 706, et al.*, Superior Court of California, County of Los Angeles, No. 522139; *Clyde Leonard Smith v. General Service Studio, Inc., and Studio Grips Local 80, IATSE*, USDC, So. District, Calif., No. 6030-B, Civil.

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to the local.[84] The Hollywood locals which were ordered to be investigated in 1946 because of rumors of permit issuance complained in turn to the 1948 convention about the use of permits by other locals.[85]

*Brewery Workers*

The last in this union-by-union account of the work permit is the Brewery Workers. This union has had a long history in this field and was probably the first to adopt the nonmember permit as International policy. This it did in an attempt to adjust its organization to the problems of seasonality and technological change. To understand the adoption of the permit system, some exploration of the pre-permit history of the union is desirable.

The 1896 constitution contained a clause by which the locals of this union were required "to inaugurate the layoff system", and providing that, when additional help was needed, it should be secured from neighboring locals before nonmembers were allowed to work.[86] The "layoff system" was nothing more than an earlier name for work rotation. Evidently the employers had been in the habit of discharging excess workers in the dull winter season—thus completely severing the employment tie. The union apparently wanted to maintain the tie and so demanded rotation of the work.[87] In 1897 there was a complaint by Syracuse Local 11 that Syracuse Local 49 allowed the breweries, in the summer, to employ a large number of nonunion helpers on the wagons and in the stables "who cannot join the Union, even if they would like to do so." The offending local was fined $100 and the convention also voted a penalty of $10 for each case where a local did not apply to the neighboring local for additional help.[88]

[84] IATSE, *Proceedings*, 1948, pp. 268-69.

[85] *Ibid.*, pp. 296-97.

[86] Brewery Workers, *Constitution*, 1896, 9-12.

[87] Brewery Workers, *Proceedings*, 1897, no pagination, but explanation of system given in a leaflet bound with proceedings of 9/2/97 afternoon session in U. S. Department of Labor library.

[88] *Ibid.*, 1897, no pagination, but see afternoon session 9/21/97, morning session 9/25/97, and afternoon session 9/26/97.

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The layoff clause was modified by 1904 to limit the layoff to one week [89] and by 1914 the clause specified that the layoff was not to exceed six days at a time or be less than one day at a time.[90] By 1914, also, the clause requiring that neighboring locals be contacted before nonmembers were permitted to work was changed to read simply that nonmembers could not work at all and that the additional help should be secured from other locals.[91] These changes followed admitted difficulties in the rotation system—employers refused to rotate the "first men", on the ground that there was no one else competent to do the work; it was considered unsatisfactory by the union for certain groups such as the drivers; and locals (with their considerable autonomy) were making other arrangements, such as complete shutdowns on a certain day of the week.[92]

Under these circumstances, the attempt to protect the jobs of the local members apparently led to the *de facto* beginnings of the permit system as early as 1906, as is indicated by the fact that by this time locals were carrying lists of "extra members" who paid local fees and who supposedly worked only in the busy season. Actually they worked nine months of the year, no per capita was paid on them, and the International did not consider them to be members.[93] The 1906 convention recommended that "such extra list of so-called members be abolished as soon as possible", but that while they existed the locals must pay per capita on "such extra list members".[94] By 1908, there already was a report of a case of a bottle shop worker who had been working for two years (with short breaks) but who failed to gain admittance to the local union.[95] The situation evidently worsened in the next two years, for in 1910 the officers reported:

[89] Brewery Workers, *Constitution*, 1904, IX, 17.

[90] *Ibid.*, 1914, IX, 17(b). [91] *Ibid.*, 1914, IX, 18.

[92] Brewery Workers, *Proceedings*, 1904, pp. 108-9.

[93] *Ibid.*, 1906, p. 105. The use of the term "members" should be discounted since the Brewery Workers often referred to the permit men as members even after the formal introduction of the permit system. See, for example, *Officers Report*, *Proceedings*, 1920, p. 20.

[94] *Ibid.*, 1906, pp. 163-64. [95] *Ibid.*, 1908, p. 163.

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> We also wish to call the attention of the membership to the fact that in many localities not sufficient importance is attached to the employment of union men only. Selfishness, or rather the fear that they might have to lay off for a few days, is partially responsible for this. . . .[96]

By 1914 the problem of adjusting the size of the organization to the amount of available work was becoming acute. "Because of the open membership and the rotation system, it got so that when the dull season came there were so many to share in the rotation that a man's job wasn't worth anything."[97] In this year the officers reported that improvements in the technology of bottling had aggravated the problem of seasonal fluctuations in the demand for help, and that the locals had not solved the problem of the employment of these extra employees in a manner which would protect the jobs of the regular union members and of traveling members who desired employment. They, therefore, proposed that when union members were not available permit cards should be issued upon payment of one month's dues. The permit cards were to be valid for one month only, per capita was to be paid on them, and the permit holders were to be given preference for regular jobs when vacancies occurred. In defense against any charge that the union was thus building up a closed union, the officers stated:

> We believe if this or a similar plan is adopted we will give our members the protection they seek, and also protect our organization. Some may say that we are building a wall around our organization, but this is not the intention; quite to the contrary; we want to find out by this system how many men are really needed to run the various establishments at the different seasons of the year, and this is, to our estimation, the best way of getting the information. We have found that in some localities a large percentage of non-union men were employed, and these men were employed at a far lower rate of wages than the contract called for, many of them working almost steady. On the other hand, we cannot compare the bottling business with any other calling, as this particular branch of our industry is subject to frequent

[96] *Ibid.*, 1910, p. 160. [97] Interview.

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and sudden changes of demand, and during the winter months lies almost dormant.[98]

The committee which handled the above report approved it with a recommendation that the permit card system be adopted for bottlers only. This led to a long discussion (not reported), which resulted in the whole matter of establishing the permit system being put in the hands of the General Executive Board.[99]

Unfortunately, no clear record could be secured of the early days of the operation of the new permit system—which was now out in the open as part of International policy. Apparently the only difference between the regular members and the permit holders when the system started was that the latter paid no initiation fee, but paid the regular dues, on which the local in turn paid per capita.[100] The official "permit season" was April to September, but from the very beginning there were locals which used permits outside the busy season.[101] At the first convention (1917) after the adoption of the permit system, the General Executive Board and officers reported that practically all new bottlers' contracts provided for permit men, but that in states facing prohibition the International had to allow the use of permits in other departments as well in order to prevent excess membership from overburdening the local when the business readjustment took place,[102] and that the permit system had proved its worth in bringing in per capita which

[98] Brewery Workers, *Proceedings*, 1914, pp. 132-33.

[99] *Ibid.*, p. 156.

[100] Interview.

[101] From the start of the official use of permits, the officers' reports of the Brewery Workers have contained various data relating to permits, such as number of locals using permits, number of permit men, number of per capita stamps issued for permit men, number of months worked by permit men, etc. From these data it is possible to follow, within limits, the use of permit men outside the busy season. See, for example, pp. 26-31 of the 1917 *Proceedings*. The use of permits in the slack winter season is occasionally also indicated in nonunion sources such as *Sioux City Brewing Company*, 82 NLRB 1061, and *Pepsi-Cola Bottling Company of Kansas City*, 55 NLRB 1183. For an example of a Brewery Workers' contract providing for the use of permits from April to September see Elias Lieberman, *The Collective Labor Agreement* (New York, 1939), p. 193.

[102] Brewery Workers, *Proceedings*, 1917, p. 26.

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had previously been lost by the employment of nonunion extras.[103]

At this time the constitution was amended to provide, in a general way, for the permit system. When the 1917 convention closed, the constitution called for mandatory rotation in the dull season (Sec. 30); for permit men in the busy season, whose employment should not cause any layoff of members (Sec. 31); and for the use of permits only when members were not available from near-by locals (Sec. 32).[104]

In 1920 and 1923 the officers reported only that the permit system provided additional revenue and helped the regular membership.[105] In 1926 and 1933, attempts to make more specific and to enforce the clause giving preference to members of other locals met with nonconcurrence and failed.[106] Meanwhile, the use of permit men continued.

In 1936, the attack on the permit system and the rotation plan started within the union, though it did not bear fruit until 1942. The number of permit men, which was just over 2,000 in 1931-1932,[107] rose with the end of prohibition to some 8,500 in 1932-1933,[108] and to just over 13,500 in 1935-1936.[109] At the 1936 convention a resolution was introduced setting forth that changed conditions had made the rotation system, specified in the constitution, a handicap; that the abuse of the permit system by carrying men on permits for long periods amounted to no more than a cheap labor system;[110] that seniority had become the predominant rule among organized labor and would provide the best protection to the older worker; that, therefore, the constitution should be amended to let each local choose for itself as to whether to use the rotation plan or a seniority system.[111] The resolution met a committee nonconcurrence and failed.[112]

[103] *Ibid.*, p. 31.

[104] *Ibid.*, pp. 109-10; continued unchanged, except for section numbers, up to 1942.

[105] *Ibid.*, 1920, p. 20; 1923, p. 19. [106] *Ibid.*, 1926, p. 99; 1933, p. 111.

[107] *Ibid.*, 1933, p. 17. [108] *Ibid.* [109] *Ibid.*, 1936, p. 21.

[110] As will be noted below, it had become customary for the permit men to get lower pay under the union contracts.

[111] Brewery Workers, *Proceedings*, 1936, pp. 104-5. [112] *Ibid.*, p. 106.

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The intra-union protest mounted higher in 1939. This year there were four resolutions in the field instead of the one which turned up in 1936. These resolutions made the following additional points: that the rotation system precluded brewery workers from receiving unemployment benefits under the various state acts; that the rotation system fostered abuse of the permit system; that the permit system represented " taxation without representation ", was fundamentally un-American, and led to the use of permit men by the employers as spies, strikebreakers, and so on. One of the resolutions called for local option on seniority or rotation, three called for a seniority rule alone, and one also called for the abolition of the permit system. All the resolutions met with committee nonconcurrence and were lost.[113]

By 1942 the number of permit men employed was over seventeen thousand[114] and the pressure for a change in the permit and rotation systems had become so serious that the officers made a special report on the subject to the convention. They referred to complaints that permit men were denied membership yet forced to pay dues (in some instances higher than the regular members); that there were favoritism and nepotism in admitting permit men to membership; and, most importantly, that the International had found that in jurisdictional disputes and cases before the NLRB the Teamsters were capitalizing on the abuses of the system by promising the permit men equality in membership and pay.[115]

The International officers, however, were not ready to abandon completely either the permit system or work rotation. They pointed out that the permit man did not have to pay any initiation fee while temporarily employed in the busy season, while admission to membership would, under the rotation system, mean " unwholesome " layoffs in the slack season. At the same time, further technological advance was making the problem more acute in that the dull season was now accompanied by

[113] *Ibid.*, 1939, pp. 177, 216, 219, 285-86.

[114] The number reported in 1936-37 was 15,422, in 1937-38 was 17,041, in 1938-39 was 12,823, in 1939-40 was 15,460, in 1940-41 was 21,545, and in 1941-42 was 17,216. See *ibid.*, p. 31; 1942, p. 36.

[115] *Ibid.*, 1942, pp. 132-33.

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layoffs of even union members, to say nothing of the dismissal of the permit men. This, combined with the repeal of prohibition and the rotation system, led to the ever-increasing use of permit men in all departments of the breweries.[116]

Recognizing that some locals wished to operate on a seniority basis rather than to use work rotation and permits, the officers presented a recommendation of the General Executive Board: "That local unions desiring to establish a seniority system at the expiration of their present agreement, be privileged to do so, subject to the approval of the General Executive Board." [117]

The 1942 convention also saw the introduction of eight resolutions (a record number) on rotation, seniority, and permits. In addition to the abuses referred to in previous years, these resolutions pointed out that in some locals there were more permit men than members, thus allowing the minority to tax and rule the majority. Three of the resolutions called for seniority, three called for abolition of the permit system as well as the establishment of seniority, one called simply for abolition of permits, and one authorized the General Executive Board to decide, as to each contract, whether seniority or rotation should be used.[118] The Constitution Committee considered all the resolutions together and proposed that the entire subject be covered by adopting the recommendation of the General Executive Board with the following addition to correct abuses in the permit system: "At the commencement of the dull season all local unions shall be obliged to make a survey of vacancies existing in regular crews. All such vacancies shall be filled by extra union men, or by permit help who must then be admitted to the union." [119] The report of the Constitution Committee was adopted after a "lengthy discussion" which was not fully reported.[120]

Later on in the convention, a motion was presented to prohibit locals from making contracts providing for more than a $2.00 per week differential in wages for permit men.[121] Discussion on this motion revealed that there were instances of an $8.00 differential. To avoid difficulties which might arise in

[116] *Ibid.*, p. 133. [117] *Ibid.*, p. 134. [118] *Ibid.*, pp. 216-21.
[119] *Ibid.*, pp. 221-22. [120] *Ibid.*, pp. 222-23. [121] *Ibid.*, p. 272.

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an attempt to equalize the wages of permit men and members in one jump, the resolution was withdrawn in favor of one instructing the General Executive Board to work toward minimization of the differential.[122] The General Executive Board stated that it had been working for uniform wages or only a small differential when contracts came in for approval. "But we find in some contract negotiations, selfishness among our regular members, who are ready to drop demands for permit card men if by doing so they can obtain a little more for themselves."[123] Actually, the most common differential was $2.00 per week. Originally the permit men usually received the same pay, but the contractual differential gradually developed and the International found it difficult to act effectively because of the high degree of local autonomy.[124]

Thus ended the 1942 convention. After the convention, the General Executive Board recommended contract clauses for those locals which wished to use seniority. Actually the recommended clauses were a blend of seniority, rotation, and permit use. In dull season layoffs, the permit men were to go first, then came "extra union members"[125] in the order of seniority among the "extras", then came work rotation for the "regular union members". All "extras" were to be laid off before rotation of the "regulars", and "extras" were entitled to recall in order of seniority. Vacancies in the "regularly constituted crew" were to be filled by the senior "extra" and the senior permit man moved up to the place vacated by the "extra".[126]

This combination of seniority, rotation, and permits did not end dissatisfaction with rotation and permits. The number of permit men had increased to over 28,000 in 1942-43, to over 33,000 in 1943-44, to over 34,000 in 1944-45, and to over 32,000 in 1945-46; while each permit man worked an average of seven months each year.[127] At the 1946 convention two

[122] *Ibid.*, pp. 273-74. [123] *Ibid.*, p. 273. [124] Interview.

[125] Distinguished from "regular union members" on the basis of date of admission into the local.

[126] Mimeographed sheet entitled "Seniority Provisions", secured in Interview.

[127] Brewery Workers, *Proceedings*, 1946, p. 33.

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resolutions were introduced on the establishment of seniority for all members and the abolition of permits. Both resolutions were defeated when it was pointed out that locals which wanted to use seniority could do so, and the General Executive Board promised to investigate and correct abuses of the permit system.[128]

By the time of the 1948 convention the Taft-Hartley Act had been passed and the matter of retention of the permit system was not a matter of choice for the union.[129] All references to permits were removed from the constitution, and the new provisions refer only to seasonal and temporary employees, who are made eligible for membership. Since closed shop contracts which were made before the Taft-Hartley Act may still be valid, however, it is also provided that these employees need not be admitted if to do so would disrupt established seniority or layoff procedures.[130] The union, however, still faced the problem of seasonal workers who were loath to join and pay initiation fees, even under contracts requiring membership after thirty days' employment. For the employer, enforcement of the contract meant an increase in turnover among the purely temporary employees. The solution which has been worked out, apparently to the satisfaction of all, has been to use contract clauses which give the temporary employee the option of becoming a full member or of being permitted to work upon payment of regular dues alone; and this is combined with definitions of "temporary" in terms of days or months worked, so that after a certain period the employee comes under the regular union membership requirement.[131]

### *The Union View of Permits*

The record shows that permits have been used in over two dozen Internationals. The majority of these unions operate in the building trades or the maritime field (including the

[128] *Ibid.*, pp. 161, 189-90, 205-6, 230.

[129] At this time it was reported that there were 16,423 permit men in 1946-47, and 11,332 in 1947-48—with each permit man employed an average of about six months each year. *Ibid.*, 1948, p. 37.

[130] *Ibid.*, pp. 354-56.

[131] Interview.

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closely related longshore work) in which the employment picture is one of seasonality or intermittency or both. A notable exception is the moving-picture machine operators' locals of IATSE. Without having made a detailed study of employment in this sector of the motion-picture industry it does not seem, offhand, that it is particularly affected by seasonality or intermittency. In the Brewery Workers, an existing seasonality was aggravated by technological developments in certain operations and sections of the industry, and this, together with the union's system of work rotation in the slack season, made the permit a logical answer to its problem. Work rotation is, of course, also a factor in the use of permits in the maritime field.

The criticisms directed against the permit system by students outside the labor movement need not be detailed here, for they run along the same lines as those expressed within the unions and which have already been touched upon. Both groups have pointed out that it endangers control of the labor supply and thus weakens the bargaining power of the union, fosters dual organizations, trains potential strikebreakers, defeats efforts to maintain a regular apprenticeship system, and so on. Where the permit system lacks official sanction and control, it may deprive the International of a potential per capita paying membership and there is an additional reason for International disfavor—but International opposition on the grounds that the permit is fundamentally undemocratic, un-American, and contrary to the principles of unionism is not lacking in sincerity. Actually, the attitude of the Internationals toward the permit has varied and has a certain degree of ambivalence. Among the building trades unions there have been both condemnation of the permit *per se* and acceptance of the permit together with attempts to control its use and the abuse of what are conceived to be its legitimate functions. The latter attitude has also been, by and large, the attitude of IATSE and the Brewery Workers. The unions in the maritime and related trades, which accept and control the permit system, on the other hand, have built up little or no record of abuse of the permit and are mainly concerned

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with avoiding the use of permit men as strikebreakers.[132] To counteract this possibility, some of these unions make special efforts to give the permit men a feeling of being part of the union though not actually members, frequently refer to them as "trip card members", have held meetings for permit men, and have held out the permit as a logical prelude to membership.[133] These differences in viewpoint will be developed below, together with some comments and conclusions.

Most publicity relating to the use of permits has occurred in connection with racketeering and governmental investigations into various unsavory union practices. The Lockwood Committee in New York just after World War I, for example, brought forth the story of the use of permits in the New York Building Trades Council under Brindell. This unfortunate connection between permits and corruption (perhaps almost inevitable where locals have a good deal of autonomy) led to flat denunciation of the permit system by top union officials, obscuring the fundamental reasons for its existence. During the Lockwood Committee hearings, Brindell's successor in the New York Building Trades Council came out for completely open unions, though he did say: "The permit system is a very bad system, except there may be, say, a labor union where at times for a short period of a month or two they may not have sufficient men. Permits in that case would be all right."[134] At the same time, Hugh Frayne, who was then New York representative of the AFL, explained that permits originated as an installment method of paying the initiation fee, and that use of permits as continuous taxation was contrary to AFL policy.[135] During the national defense

[132] See, for example, Marine Firemen, *The Marine Firemen*, March 6, 1947, pp. 1, 4.

[133] See, for example, Marine Cooks, *Rules for Probationary and Trip Card Men*, issued October 7, 1943, preamble and pp. 1, 3; Works Progress Administration, National Research Project, *Decasualization of Longshore Work in San Francisco* (Philadelphia, 1939), p. 30, note 23; *History of the Longshoremen's Union I.L.W.U. Local 10*, printed October 1943, *passim;* CIO Longshoremen, *Proceedings*, 1943, pp. 199-217.

[134] *Lockwood Committee Transcript*, p. 4384.

[135] *Ibid.*, p. 4616.

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program just preceding the entrance of the United States into World War II, stories of the vast sums collected as permit fees by the building trades unions, in connection with the construction of camps and government armament plants, were rife. As a result, the AFL Building Trades Department, on March 29, 1941, adopted a resolution to permit the employment of nonunion men where members were not available; that such nonunion men could stay on the job until members were available or until they were requested to join the union; and that under these circumstances "no permit or privilege moneys shall be collected"; and that no initiation fees "or other union obligations" shall be collected from the nonunion men except where they qualify for membership or have been requested to join the union and have been accepted.[136]

It was not until two states passed laws banning permit fees that there was any full-scale defense put on the record by the AFL. In the attack on the Alabama law, the AFL in its brief made only a short reference to work permits as the term is used in this study. The bulk of the argument was on other restrictive features of the law.[137] In the Texas case, however, a fuller argument was set forth. The first part of the argument related to a permit fee for apprentices, which was defended on the ground of being, in effect, a fee for teaching as well as for the protection accorded by the union contract during the training period.[138] The second section covers permits, as here defined, and represents the official AFL position. The AFL brief sets forth that the permit holders are insufficiently skilled to be eligible for membership in the skilled crafts unions; that to admit them and thus certify them as journeymen would work a fraud upon the public; that they are purely temporary workers who may not wish to pay initiation fees even if eligible

136 U. S. Senate, 77 Cong., 1st Sess., 1941, *Special Committee Investigating the National Defense Program*, Testimony, Part 1, pp. 145-46.

137 *Alabama State Federation of Labor, Local Union No. 103, United Brotherhood of Carpenters and Joiners, et al. v. McAdory, et al.*, 65 S.Ct. 1384 (1945), *Brief for the Petitioners*, pp. 49-53 refers to work permits.

138 *American Federation of Labor, et al. vs. Gerald C. Mann, et al.*, 188 S.W. 2d, 872 (1944). The court held that the law could not be reasonably construed to ban permit fees under these circumstances.

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for membership in the less highly skilled trades; that they, nevertheless, receive the minimum journeyman's rate for which the unions have struggled, and they receive all the benefits and protection of the union contracts; and that to service these permit holders, along with the regular members, the unions undergo expenses which should be shared by the permit holders by the payment of nominal fees which are less than would be required if the worker joined the union.[139]

It will be noted at once that this official defense, as is to be expected, presents the permit system in its "ideal" light. However, the argument that indiscriminate issuance of journeyman cards to workers not really skilled at the craft would constitute a fraud on the public is not entirely specious. Such indiscriminate admission in San Francisco after the 1906 earthquake brought criticism upon the unions and lost to them the claim that they represented the best craftsmen in the industry.[140] However, as President Huddell of the Operating Engineers replied to a recalcitrant local:

> As far as their being examined is concerned, as to their qualification, our General Executive Board decided that their employment operating machinery was sufficient to guarantee of their qualification as engineers, and that they had stood a practical test and must be taken into your Local Union.[141]

In contrast to the official defense made by the AFL, the maritime unions are realistic and to the point. Thus, the Sailors' Union of the Pacific:

> The SUP during the war sailed excess seamen required by the war under permits, not collecting initiation fees from them. Now these men are going back to peacetime pursuits, and the SUP has a better supply of jobs for its actual members than these CIO unions, which collected initiation fees from the wartime workers, and now has thousands of them out of jobs. So they're trying to raid the SUP for jobs.[142]

[139] *Ibid., Brief of Plaintiffs in Error*, pp. 71-74.

[140] Frederick L. Ryan, *Industrial Relations in the San Francisco Building Trades* (Norman, Oklahoma, 1935), pp. 120-21.

[141] Operating Engineers, *Proceedings*, 1924, p. 305.

[142] Quoted in San Francisco Labor Council, *Labor Clarion*, July 12, 1946, p. 1.

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And President Curran of the NMU:

> . . . we can't put you [the trip card man] ahead of men who have been in this industry years and years, have experience and all, but we will do this for you—in order to give you work we will allow you to ship on a job on the understanding if there are (union) men available when that vessel returns from a 30-day voyage, you will have to stand by and see if a union man is available, and if not, you will continue. . . .
>
> Hundreds of men are right now aboard vessels that are not members of the union. Right now. The union offices are always open to men to apply for jobs. But this union, like any employer, tells a man—when there is no work, certainly we are not going to take the position that this industry should have 300,000 seamen standing by when there are jobs for 35,000, and we certainly shouldn't take the position that the man who has spent his life, has gone through the war, and help build the conditions in this industry, that he should be replaced by any man walking down the street. At least he should be given the opportunity. He is sailing steady, and this man from the woods, every time he gets hungry—I will get down to the dock and walk aboard a ship and get a job.[143]

The persistence of the permit system, and attempts to use permits, even in the face of threats of dire action by the International officers, have already been noted. The subterfuges used in the attempts to thwart the International policy in such cases (that is, disguised as apprenticeship, " junior " membership systems, and so on) suggest the strong feelings held by the local membership. It would be a mistake to assume that this feeling is directed only to nonmembers—its real intensity is indicated by the fact that it extends as well to members of other locals of the same International. Though no full search has been made, even a brief glance at union journals and proceedings shows almost innumerable cases of refusals of locals to honor transfer or clearance cards. While some of these cases record a flat refusal to let the outside member work in the local jurisdiction, there is more than one instance of the local refusing to accept a clearance or transfer card and

[143] *National Maritime Union*, 78 NLRB 971 at 1015, quoting statement of Curran made on June 8, 1948 before a Board of Inquiry appointed by President Truman pursuant to Section 206 of the Taft-Hartley Act.

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then issuing a permit, at a fee, to the member from another local.[144]

Essentially, the permit is just one aspect of the entire question of the "closed union" and local job control—problems which are close to the heart of the local member, especially in industries with seasonal and intermittency employment patterns. International officers may make speeches about the principles of unionism—but it is the local which has to provide and keep the jobs for its members. In the Asbestos Workers, where permits are free and under International control, the permit is viewed as a device to avoid overloading the locals with members for whom there would be no employment available in normal times; and, as a corollary, the locals are not allowed to restrict their membership below normal labor market requirements. Even here a permit fee is considered logical as a service fee and is only barred on the ground that any payment opens the way to abuses and had thus be better avoided entirely.[145] And in speaking of the attitude of the local unions, one International personage of the AFL Electrical Workers put it this way:

> I personally believe that all qualified persons should be admitted but I can understand the feelings of the local unions. The local unions have been through bad experiences in depressions where there were more members than work; then business gets better and the "fair weather friends" who did nothing to help the union fight for conditions during the depressions and did nothing to help establish or support the union at any time, come around and want membership; the local understandably is not anxious to admit this type of worker and find itself again faced with more members than jobs in future depressions.[146]

Where the permit is used to satisfy only genuinely temporary demands for labor in the sense that the work is more temporary than that done by union members in the regular course of their employment, and the permit is free or costs only dues,

[144] See, for example, Plumbers, *Proceedings*, 1924, pp. 131-32, and Painters, *Proceedings*, 1941, p. 271.

[145] Interview.

[146] Interview.

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it is likely that any resentment aroused among the permit men against the union is minimized. This apparently has been the experience of the Asbestos Workers. This is true, further, where the permit is held out as a justified waiting period before entry into the circle of those for whom work is guaranteed or reasonably assured. It is in this spirit that the permit system has often been presented in the maritime and related unions. It was thus expressed by the San Francisco local of the CIO Longshoremen in 1943:

> This union has never closed its doors to new members. Even when work was slow, we admitted five members per month. Many men who are now members spent several years on "permit", waiting their turn for membership. They knew the union guaranteed work, since whatever work was available was equally divided, and membership was worth waiting for.[147]

Under such circumstances, the permit system does not necessarily weaken the bargaining power of the local—at least to no greater extent than the presence of any body of nonunion men in the labor market and probably less so.

This discussion has been concerned primarily with the permit as it affects control of the job by the union. A possible area left unmentioned has been the *control of the union.* Undoubtedly, a psychological factor in the use of permits has been the reluctance of the settled membership to admit numbers of new men whose presence might upset the balance of power within the union or the control of the union itself. This influence is most difficult to evaluate, and even more difficult to investigate, but it should not be ignored in considering the permit problem as a whole.

HERBERT J. LAHNE

WASHINGTON, D. C.

147 *History of the Longshoremen's Union*, p. 19.

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# ECONOMIC LIBERTY AND THE STATE

"STATISM" is often singled out as the prime enemy of individual liberty.* Unrestricted state power can indeed crush liberty. History is full of examples, but we need go no further than to contemplate the practices of present-day totalitarian governments to demonstrate the fact. But in our revolt against statism we must not forget that, while the state is capable of destroying our liberties, it is also essential to their very existence. We have to rely on the state to restrain powerful private individuals from unduly restricting the liberty of weaker ones. One who is locked up by a kidnapper is deprived of liberty as completely as if he were imprisoned by the state. One who shuts up his shop to avoid the threatened violence of gangsters has lost his freedom to conduct his business quite as much as if the state had passed a law forbidding him to do so. When the state, through its administration of the criminal law, destroys the liberty of kidnappers and gangsters to engage in their activities, it is enhancing, not curtailing, liberty in general.

The liberty to kidnap or to engage in violence, which the state represses, is not a liberty which anyone would openly condone. In fact there are many who say that, when the state represses such activities, it is not repressing liberty at all, but license. This would seem to be an evasion of the issue. The state certainly undertakes to repress liberty to commit "license". It would seem more candid to recognize that there are some liberties that are pernicious, and that would, if permitted to exist, destroy other liberties which ought to be protected.

As society grows more complex, acts which in a simpler state were innocent enough may now endanger other people's liberty. In the days of the horse and buggy there was no occasion to install traffic lights. With the automobile we have found it

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necessary. Freedom to drive on, before the light turns green, is restricted, but the restriction serves to enhance the general freedom to drive, which would otherwise be restricted by traffic snarls.

Turning to the economic sphere we have a mélange of conflicting liberties. Every person has a certain amount of bargaining power, on which he depends for his livelihood. Bargaining power is power to exert pressure on those with whom one carries on transactions—in other words to coerce them. Each person exerts some degree of coercion over other people's liberty, while at the same time his own liberty is subject to some degree of control by others. For the state to step in and suppress every liberty to restrict other people's liberty would indeed be oppressive. But it is a fallacy to assume that every attempt by the state to control and revise the economic results of bargaining involves a net curtailment of individual liberty. It may or may not. If the liberty of those whom it restrains is less vital than the liberty which those persons would themselves restrain, then state intervention may spell a net gain in individual liberty. As General Eisenhower said at his installation as president of Columbia University, a danger to freedom arises " from too great a concentration of power in the hands of any individual or any group: the power of concentrated finance, the power of selfish pressure groups, the power of any class organized in opposition to the whole." "Any one of these," he added, "if allowed to dominate, is fully as capable of destroying individual freedom as is excessive power concentrated in the political head of the state." [1] To protect individual freedom from the danger to which General Eisenhower alluded, it becomes necessary at times for the political state to curtail the freedom of powerful groups to dominate. Whether any given extension of state control in the economic sphere involves an enlargement or a diminution of individual liberty can be determined only after a careful weighing of alternatives.

Economic liberty has a twofold aspect. On the one hand is freedom in the choice of one's work, on the other, freedom

[1] Printed in *Columbia Alumni News*, November 1948, vol. XL, No. 2, p. 8; 34 *American Association of University Professors Bulletin* 517, 520 (1948).

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to enjoy the material goods of life—in other words, freedom as a producer, and freedom as a consumer. Any force which compels a man to work, or which restrains him from working as he will, restricts his liberty as a producer; any obstacle to his use of material goods restricts his liberty as a consumer. But neither as producer, nor as consumer, can everyone's liberty be complete. The problem is how to secure the greatest practicable degree of liberty to everyone, in both capacities.

While we have abolished slavery in this country, we cannot abolish all the economic pressures which compel men to work at tasks which may be uncongenial to them. Some men have greater freedom from such pressures than others. A person whose capacities have a high value in the market may be able to obtain a satisfactory livelihood by choosing work which is highly congenial to him, and with considerable independence in his manner of doing his work. On the other hand, a person capable only of work which has a low market value may have to work long hours, at a disagreeable occupation, and under the constant supervision of someone else. Another factor which frees an individual from economic pressure to work is an independent income. The more money a man has, the less is the economic necessity for his working. If his income is large enough to satify him, he may choose to do only such work as appeals to him, or, if he is so inclined, none at all. But this factor of freedom depends on governmental restriction of other people's liberty. An income which does not come from work of some kind comes from some form of property. And property would yield no income unless the law stood ready to enforce property rights—that is, to deny to people liberty to act in a way which violates them.

Freedom from compulsion to work is thus a relative thing. Some have more of this freedom, some less. Freedom to consume or derive benefit from material goods is likewise necessarily relative. In the case of a few things, it is true, such freedom may be absolute. We may all breathe all the air we wish without depriving anyone else of freedom to do likewise. We may all make use of the public pavements or enjoy whatever benefits we get from the lighting of the streets, without preventing

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others from getting similar benefits. But few material goods are produced in sufficient quantities to enable all who would like to make free use of them to do so. If free use were permitted to those who came first until the supply was exhausted, those who came later would find that their freedom to consume those goods had been effectually blocked by the first-comers. This is not what now restricts freedom to consume. Instead, the law forbids consumption except to the owner and to those to whom the owner gives his consent.

In a thinly settled country, where each family has its own piece of land, each family might rely for its wants on its own productive efforts. As producer of what it needs, it becomes the owner of its own products. Its liberty to consume is then limited only to the amount of what it produces. No other person's consent has to be obtained in order to enjoy this much of freedom, and other people are restrained by law from interfering with it by themselves making use of the family's products. But this sort of family economy would not suffice to produce for the needs of people in a country so thickly settled as is ours. We rely instead on a far more efficient, but far more complex, system of collective production, with widespread division of labor.

With this division of labor, scarcely anyone consumes the products of his own labor. He produces what he does, not in order to consume it, but in order to obtain the wherewithal to enable him to consume the products of other people's labor. But to obtain freedom to consume these products, the law requires him to have the consent of the owners. He can get the consent by paying the market price. Indeed, the market price is nothing else than the statement of the conditions which restrict his liberty to consume. He may not make *free* use of goods in the market. His liberty to use them is not absolute. It is conditional on his payment of the going price.

He pays this price in money, not by direct barter of the goods which he himself owns. How does he obtain the money? If he is himself the owner of goods of which he does not care to make personal use, he obtains money by selling them at *their* market price. If he became the owner by producing them with

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his own efforts alone, his freedom as a consumer depends on the relation between the market prices of the goods he has produced and of those which he wishes to consume. But to obtain such freedom as he gets, he had to forego the exercise of freedom to refrain from working for their production.

Not many people, however, become the owners of goods by producing them. Goods are typically produced by such complex processes, with so many participants, that it would generally be impossible to identify *the* producer. The owner of the factory commonly becomes the owner of the goods which it turns out. He was doubtless, if he took part personally in organizing or managing the plant, one of the participants in their production, but obviously not the only one. Those who provided him with his raw materials and fuel and his machinery, as well as his employees, have all participated in the collective efforts needed to get the goods produced. In consenting to perform these various productive functions, however, these others have either explicitly or tacitly waived all claim to participate in the ownership of the finished product. They have waived it in return for money paid them by the owner. While the latter, therefore, has not acquired the ownership by virtue of having produced the goods himself, he has acquired it by virtue of numerous transactions in which the other producers have transferred their shares to him. He has acquired it with the consent of all the other joint producers.

His freedom to consume, then, will depend on the terms on which he can induce these other producers to enter into the transactions to coöperate with him in production, on the terms on which he can induce consumers to enter transactions for the purchase of his products, and on the terms on which he can induce the owners of what he wants to use, to enter transactions for selling them to him. The lower the market price in these transactions for the purchase of what he wants either in his business or for his personal use, and the higher the market price in the transactions for the sale of his products, the greater will be his liberty to consume.

But ownership of products is not the only source of money to an individual. As already indicated, an employee in a factory

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waives all claim to ownership. He receives instead a direct money payment for his work, and this varies with the market value of the work which he is capable of rendering. Like the owner, his money depends on a transaction, and his freedom to consume on further transactions with some of those who own the things that he wants.

The owner performs his rôle in the productive process in anticipation of future transactions for the sale of his goods; the employee as the result of a transaction already made. We rely on all these numerous bargaining transactions for the production of goods. We all have a common interest in making this collective output as great as possible. If the goods are not there we cannot enjoy them. No matter how rich a man was during the Second World War, his freedom to consume butter or gasoline or tires was strictly limited. And if the goods are so scarce that the price is high, each customer's dollar will give him less freedom to consume than otherwise.

On the other hand, a plentiful output of goods is of no benefit to one who is denied access to them. To acquire liberty of access, we again rely on transactions. The more money a man has, given a certain aggregate output of goods, the greater will be his freedom to consume. But the amount of money he can obtain in transactions for the sale of his goods or services will be greater if the supply of similar goods or services is scarce. The introduction of the mechanical cotton picker may increase the general welfare by facilitating access to cheap clothing; at the same time, the human cotton picker in the South may pay a disproportionate price for this improvement in the general welfare, by losing his earning power. And the dislocations involved may have such serious repercussions as to nullify the benefit to the general public. Reduction of the tariff to permit the increased importation of cheap foreign goods would promote the *general* interest of Americans in the existence of abundance, were it not for dislocations caused by the resulting impairment of those *special* interests which thrive on relative scarcity. When we build a highway for the general welfare, which involves the use of privately owned land, we compensate the owner, so that he does not bear a disproportionate part of the cost of the general

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improvement. We have as yet devised no practicable system for compensating those whose special interests in scarcity will be sacrificed to the general interest in abundance. Unless and until we can do so, we shall probably have strong political obstacles to an economy of abundance.

The transactions which result in the production of our collective output, and in individual freedom to consume some portion of that output when produced, are bargains. Their terms depend on the relative bargaining power of the parties. The market prices of goods and services, on which the degree of each person's economic liberties depends, register that relative bargaining power. To call the transactions bargains does not necessarily imply that there is haggling over terms. There may be or there may not. In negotiating a new wage agreement by collective bargaining, or negotiating for the sale of real estate, where the market does not set a very definite price, the obstinacy or the bargaining skill of the parties may be an important factor. In a sale of 100 shares of United States Steel, on the other hand, the terms are fixed by the quotations on the stock exchange. But it is because the bargaining power of the owner of the shares is sufficient to enable him to collect the market price, and because that of the owner of the money is sufficient to enable him to insist on delivery of the shares at that price if the other wants the money, that the transaction takes place on the terms on which it is made.

Bargains are made only when both parties consent to them. The process is sometimes referred to as " freedom of contract ". But it is not entirely " free ". One consents to the terms of a bargain because the other party's consent is necessary to the obtaining of some advantage. The employer can grant or withhold a wage from a prospective employee. It is to avert the withholding of that wage that the employee consents to work. The worker is under no legal obligation to work for this employer, and it is to avert the worker's withholding of his services that the employer consents to transfer to him a specified amount of his money. The worker can act to the disadvantage of the employer by declining to work, and the employer can act to the worker's disadvantage by refusing to hire him. If the

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transaction is completed, each yields in order to avoid the disadvantage to which the other can subject him. That is, he yields to a threat.

The threat may not invoke resentment. The counterpart of a threat is an offer to act in a way which will not subject the other party to the threatened disadvantage. The offer may be so welcome as even to inspire gratitude, and to cause the threat to recede into the background of his consciousness. It is there nevertheless. An intention to act in a way which would be disadvantageous is not the less a threat because there is nothing unfriendly about it, or because the other party regards it as quite reasonable. But if the other party gives up part of his liberty to remain idle, or some part of his money or other property, in order to induce an abandonment of the intention to act disadvantageously toward him, he is responding to a threat. He is coerced into giving his consent to the transaction, as, indeed, are both parties. The more serious the harm which one party can threaten to inflict on the other, or the more important the advantages which he can threaten to withhold, the greater will be his bargaining power, and the more favorable to him will be the terms of the transaction. And market values reflect the relative force of the threats which buyers and sellers of goods or services can make.

The threats which can be made by some people are more serious than those which can be made by others, and thus, as a result of the various transactions in which such threats are employed, we find great economic inequalities—inequalities in freedom from the necessity of doing disagreeable work, and in freedom to enjoy the good things of life. That is why one who is capable of rendering service of a kind that is scarce in relation to the demand for it can, by threatening to withhold that service, obtain better terms for not carrying out his threat than can one with no such capacity. The latter may be forced to perform one of the humblest jobs, and in return may acquire only as much freedom to consume as is possessed by the ill-fed, the ill-clothed and the ill-housed. The owner of valuable real estate or industrial plant, on the other hand, can, by threatening to withhold it from use, succeed in obtaining a large sum

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of money for consenting to its use, since the law forbids its use without his consent. He may then be able to live as well as he likes, immune from any pressure to enter into a transaction calling for any work which he does not wish to do. Everyone must make bargains for the acquisition of property, in the form of food and clothing. But he who already has much property, whether it take the form of tangible things, or the less tangible form of contract rights (such as bonds, mortgages and bank deposits), can acquire the things he wishes to consume without rendering personal services in return; he who starts with no property cannot. As Justice Pitney once remarked, in speaking of "the right to make contracts for the acquisition of property," with special reference to those "by which labor and other services are exchanged for money or other forms of property," "the vast majority of persons have no other honest way to begin to acquire property, save by working for money."[2] Again, pointing out that "inequalities of fortune" are inevitable when private property exists, he said:

> thus it naturally happens that parties negotiating about a contract are not equally unhampered by circumstances. . . . Indeed a little reflection will show that wherever the right of private property and the right of free contract co-exist, each party when contracting is inevitably more or less influenced by the question whether he has much property, or little, or none; for the contract is made to the very end that each may gain something that he needs or desires more urgently than that which he proposes to give in exchange. . . .[3]

The "circumstances" which hamper the parties unequally are thus seen to be circumstances pertaining to legal rights and obligations. The law hampers everyone in the use of things which other people own. But the hamper works more severely on him who owns little than on him who owns much. Each enters the negotiation armed with bargaining power in the form of what the law *permits* him to do (like withholding his serv-

[2] *Coppage* v. *Kansas*, 236 U. S. 1, 14 (1915).

[3] *Ibid.*, 17.

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ices) and what it *empowers* him to do (like barring others from the use of his property). The weapons are not of equal force. At the end of the transaction, each party has lost some legal advantage which he had before, and gained some other which he did not have. As a result of past transactions, many people own property which they did not produce, many who produced material things no longer own them (if they ever did), some own much property, some little, some have large amounts of money owing to them, some are heavily burdened by debt. These economic inequalities are embodied in legal rights which the government enforces against others. It denies to people the liberty to make unauthorized use of an owner's property, or to deviate from obligations incurred by contract. Though the unequal property and contract rights resulted from transactions, many of the transactions were influenced by the fact that the parties were unequally hampered by the previous legal relationships. The unequal property rights which preceded any given transaction, however, were in part acquired by each owner in a still earlier transaction in which he gave in exchange some product of his own industry or some service whereby he contributed to the production of the collective output of the community; they were acquired in part by the owner's direct activities in producing the very things which he came to own. If they were all acquired in such ways, it might be said with some plausibility that when the government steps in to protect the unequal fruits of bargaining, it is merely seeing to it that the share which each person is enabled to take from the common output of society is the economic equivalent of what he has contributed to that output.

Any such conclusion, however, is only partly true. The government has assigned property rights to many who have neither produced the objects whose ownership is assigned to them, nor contributed to the common output anything which they have given in exchange for the assigned property rights. Land and natural resources, which were never produced by anyone, have been assigned to private ownership, not always in an equal manner, and not always in exchange for any economic equivalent. He who, by virtue of the law of wills or the in-

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testacy law, succeeds to the ownership of the property of a deceased person acquires a property right for which he has himself given no economic equivalent in exchange—however desirable the arrangement may be on other grounds. With this advantage to start with, the beneficiary of an unequal grant of public domain, or the heir to a fortune, has an advantage in future transactions over one who is less "unhampered by circumstances."

Economic inequalities, then—inequalities in freedom as producer and as consumer—are embodied in unequal legal rights. In assigning and enforcing legal rights to the fruits of transactions, the law is doing more than protect the winnings in the game of production and exchange. It is dealing unequal hands to the players. Further state intervention to alter the distribution of rights and liberties, to the advantage of those whose liberty is most restricted as a result, in part, of state action, cannot be properly described as "statism" in any obnoxious sense, whatever good reasons of policy there may be against disturbance of many of the present inequalities.

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# LOCAL GOVERNMENT PLANNING OF INTERNAL IMPROVEMENTS

THE rôle of local government deserves particular scrutiny in the analysis of American internal improvements. In the extraordinary combinations of private and public effort that gave to the United States its network of canals and railroads, the activities of hundreds of cities, towns, townships, parishes and counties took their place alongside those of the federal and state governments. These municipal and county decisions were often obscure, and their records are fragmentary and scattered. It is not commonly realized how frequently and over how long a period the projectors of internal improvements turned to local governments for assistance and support. During the first half-century of American railroad building there was hardly a state in which local aid was not at some time employed, and in many cases its use remained common practice after the policies of federal and state participation had been abandoned.

The purpose of this essay [1] is to examine these local government activities and to compare them with those of the federal and state authorities with respect to the character of the public planning involved. It is concerned with the question of the

[1] This is one of a series of studies prepared under the auspices of the Council for Research in the Social Sciences of Columbia University. Previous articles in the POLITICAL SCIENCE QUARTERLY examined federal policy in the early period and a case of state activity: "The National Planning of Internal Improvements", vol. XLIII, No. 1 (March 1948), pp. 15-44; "The Virginia System of Mixed Enterprise: A Study of State Planning of Internal Improvements", vol. LXIV, No. 3 (Sept. 1949), pp. 355-387. Other articles prepared under the same grant are: "Public Spirit and American Improvements", *Proceedings of the American Philosophical Society*, vol. 92, No. 4 (Oct. 25, 1948), pp. 305-309; "The Revulsion Against Internal Improvements", *Journal of Economic History*, vol. 10, No. 2 (Nov. 1950), pp. 145-169. These two latter will be cited as "Public Spirit" and "Revulsion" respectively.

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extent to which the purposes and the nature of government participation in internal improvements remained the same as it became a matter more largely of local than of state or national decision. It will therefore pay particular attention to the grounds on which local aid was advocated, to the conditions under which it was authorized, to the relationships between the public authorities and the railroad companies, and to the extent to which the local governments exercised and retained initiative with respect to the enterprises to which they gave their support.

### *The Legislative Basis*

A first indication of the extent of resort to municipal and county aid, and some insight into the philosophy underlying it, may be obtained from an examination of the legislation on which it was based. Table I gives a summary view of the number and timing of state laws, in the years from 1830 through 1889, which authorized local governments to extend aid to railroads. Some of the laws were of general application stating the conditions under which any county or municipality, or any authority of a specified type, could aid any railroad. A much larger number were special laws or charter provisions limited either to a specified road or roads, to a specified community or communities, or to both.

What the Table makes conspicuous is the extraordinary amount of legislative activity and its wide dispersion across the country. Nearly 2,200 special laws were enacted during the sixty-year period. In addition the great majority of states adopted general laws. Of all the thirty-eight states that became members of the Union before 1890, only two—Colorado and Oregon—appear to have had no legislation authorizing local government aid. Even these exceptions, moreover, are more apparent than real. There were instances of the guarantee of railroad bonds in Oregon, and Colorado had had local aid under territorial legislation before it entered the Union in 1876 with a constitutional provision against it.[2] Even New

[2] *American Railroad Journal* (hereafter cited as ARJ), vol. 41 (1868), pp. 608, 719; *Colorado Revised Statutes*, 1868, p. 134.

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Jersey, often thought of as the state most completely opposed to public participation in internal improvements, provides two instances of special laws authorizing local aid. During this period, no state in the Union stood completely outside the movement for local government aid to railroad construction.

A second point of interest is the timing of the legislation. The period of greatest activity fell between the end of the Civil War and the panic of 1873. Well over a third of the special laws and about half of the general laws cited were concentrated in these few years. On the other hand, it is no less significant to note the length of the period during which American state legislators continued to resort to this method of encouragement to railroad construction. Special laws began almost with the beginning of railroads, but the first of the general laws and the great bulk of the legislation were not adopted until after the " revulsion " of the forties had followed the first enthusiastic wave of state expenditure for internal improvements. Sometimes, indeed, the authorization of local aid was the direct sequel to the adoption of constitutional provisions forbidding the extension of aid by state governments. In turn measures of local aid were themselves in a number of cases ended by constitutional provision.[3] Yet the Table shows that a large number of special laws were still being adopted in the eighties and that in 1890 general laws were still in effect in fifteen states. New measures authorizing local aid continued to be enacted in the nineties and even in the present century.

Table II outlines some of the more significant provisions of the general aid laws. Many laws limited the form which aid might take to one or more of the following types: subscription to stock, purchase of railroad bonds, " the loan of credit ", the guarantee of principal or interest, or the outright donation. On one occasion the Massachusetts legislators took pains to make it clear that the town should be free to take part in the organization of a railroad corporation.[4] In several states with active aid programs, the laws provided that the local authority

[3] Goodrich, " Revulsion ", pp. 150-151 and table on pp. 155-161. See also Table II.

[4] Mass., 1874, ch. 251, p. 167.

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TABLE I

STATE LAWS AUTHORIZING LOCAL AID TO RAILROADS, 1830–1889

| Region and State | General Laws in Force Affecting: [a] | | Number of Special Laws | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Counties | Municipalities | 1830s | 1840s | 1850s | 1860–65 | 1866–73 | 1874–79 | 1880s | 1830–1889 |
| *New England* | | | | | | | | | | |
| Maine | ..... | 1867–.... | ... | 2 | 11 | 7 | 43 | 9 | 5 | 77 |
| New Hampshire | ..... | 1864–1867 | 1 | ... | ... | ... | 1 | 1 | ... | 3 |
| Vermont | ..... | 1872–.... | ... | ... | ... | 3 | 41 | 6 | 5 | 55 |
| Massachusetts | ..... | 1870–.... [b] | ... | ... | 3 | 14 | 46 | ... | 3 | 66 |
| Connecticut | ..... | ..... | ... | ... | 2 | ... | 6 | ... | ... | 8 |
| Rhode Island | ..... | ..... | ... | ... | 1 | 2 | 8 | 1 | 3 | 15 |
| *Middle Atlantic* | | | | | | | | | | |
| New York | ..... | 1869–1874 | 4 | 1 | 30 | 5 | 94 | 3 | ... | 137 |
| New Jersey | ..... | ..... | ... | ... | ... | ... | 2 | ... | ... | 2 |
| Pennsylvania | ..... | ..... | ... | 4 | 34 | ... | ... | ... | ... | 38 |
| *South Atlantic* | | | | | | | | | | |
| Delaware | ..... | ..... | ... | ... | 1 | ... | 2 | ... | ... | 3 |
| Maryland | ..... | ..... | 6 | 1 | 5 | 3 | 26 | 8 | 7 | 56 |
| West Virginia | 1863–.... | 1873–.... [c] | ..... | | | 1 | 29 | ... | ... | 30 |
| Virginia | 1848–.... | 1867–.... [d] | 12 | 10 | 36 | 4 | 41 | 33 | 67 | 203 |
| North Carolina | 1869–.... | ..... | ... | ... | 19 | 8 | 54 | 32 | 74 | 187 |
| South Carolina | ..... | ..... | ... | 1 | 3 | 2 | 6 | 20 | 62 | 94 |
| Georgia | ..... | ..... | ... | ... | 3 | 1 | ... | ... | ... | 4 |
| Florida | 1855–1875 | 1855–1875 | ... | ... | 5 | 2 | ... | ... | ... | 7 |
| *East North Central* | | | | | | | | | | |
| Wisconsin | 1872–.... | 1872–.... | ..... | 1 | 78 | 25 | 89 | ... | 3 | 196 |
| Michigan | ..... | 1869–1872 [e] | 2 | ... | ... | 24 | 4 | ... | ... | 30 |

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| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| *East North Central (continued)* | | | | | | | | | | |
| Illinois | 1849–1870 | 1849–1870 | 2 | 3 | 61 | 14 | 146 | ... | ... | 226 |
| Indiana | 1869–1875 [f] | 1867–.... [g] | 13 | 23 | 9 | ... | ... | 1 | ... | 46 |
| Ohio | ..... | ..... | 8 | 36 | 70 | ... | 5 [h] | 6 [h] | 53 [h] | 178 |
| *East South Central* | | | | | | | | | | |
| Kentucky | ..... | ..... | ... | 3 | 6 | ... | 1 | 1 | ... | 11 |
| Tennessee | 1852–.... | 1852–.... | 2 | 2 | 23 | 2 | 24 | ... | ... | 53 |
| Mississippi | 1850–1854 [i] | ..... | ... | 2 | 21 | 7 | 47 | 3 | 57 | 137 |
| | 1872–1880 [i] | 1872–1880 [i] | | | | | | | | |
| Alabama | 1868–1875 | 1868–1875 | ... | ... | 3 | ... | ... | ... | ... | 3 |
| *West North Central* | | | | | | | | | | |
| Nebraska | 1869–.... | 1869–.... [j] | ..... | | | | 5 | ... | ... | 5 |
| Kansas | 1865–1874 [k] | 1865–1874 [k, l] | ..... | | | 2 | ... | 2 | 1 | 5 |
| | 1876–.... | 1876–.... [l] | | | | | | | | |
| Minnesota | 1877–.... | 1877–.... | ..... | | 2 | 5 | 82 | 34 | 33 | 156 |
| Iowa | ..... | 1868–1872 [m] | ..... | 3 | 1 | ... | ... | ... | ... | 4 |
| | | 1876–.... | | | | | | | | |
| Missouri | 1853–1875 | 1853–1875 [n] | 9 | 5 | 75 | 20 | 2 | ... | ... | 111 |
| *West South Central* | | | | | | | | | | |
| Arkansas | 1855–1874 [o] | ..... | ... | ... | 4 | 2 | 1 | ... | ... | 7 |
| | 1873–1874 | 1873–1874 | | | | | | | | |
| Texas | 1871–1874 | 1871–1874 | ..... | ... | 10 | 2 | 5 | 4 | ... | 21 |
| Louisiana | 1852–.... | 1852–.... | ... | ... | 3 | 1 | 1 | 4 | ... | 9 |
| *Mountain, Pacific* | | | | | | | | | | |
| Nevada | ..... | ..... | ..... | | | ... | 7 | 1 | 1 | 9 |
| Colorado | ..... | ..... | ..... | | | | | ... | ... | 0 |
| Oregon [p] | ..... | ..... | ..... | | ... | ... | ... | ... | ... | 0 |
| California | 1870–1872 [q] | ..... [q] | ..... | | ... | 2 | 2 | ... | ... | 4 |
| *Total* | ..... | ..... | 59 | 97 | 519 | 158 | 820 | 169 | 374 | 2196 |

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TABLE I—(*Continued*)

STATE LAWS AUTHORIZING LOCAL AID TO RAILROADS, 1830–1889

*Sources.* The principal source consulted was the almost complete collection of the session laws of the several states in the Columbia Law Library. Some reference was made to law codes, but these usually omit special laws and skip periods when general laws may have been in effect or altered.

*Regions* follow the Census classification, omitting states which were not admitted before 1890. Continuous dots represent periods previous to statehood. Territorial laws were not examined.

*Time Periods.* There was, of course, very little railroad legislation before 1830, but limited research resources—not a lack of local aid legislation—stopped the work at 1889. Arrangement by decades was modified to preserve the identity of the Civil War period and the important railroad era between the close of the war and the panic of 1873.

*General Laws* are defined as those permitting any local government of the specified type to aid any railroad, with or without the condition that the railroad must go to, through, near, or must "benefit" the locality. These laws frequently designate the type or amount of aid also—see Table II.

*Special Laws* are those which permit one or more local governments to aid one or more railroads, naming either the railroad(s), or the local political unit(s), or both. Each law is counted only once no matter how many governments or railroads are included. They differ widely in scope, but no satisfactory weighting procedure could be devised.

The "special laws" include railroad charters, charters of municipal corporations, county tax authorizations, and laws with other titles which included provisions permitting aid to railroads and other internal improvements. A law increasing the amount of aid authorized is counted as a separate law, but laws extending the time within which aid may be given or otherwise changing the terms of aid—except where it is extended to more railroads or governments—are not counted, nor are exemptions from local taxes or grants or rights of way when there is no indication that the local government may purchase property for such grants. The complexity of some of the legislation and the wealth of local laws make it likely that this count is not complete.

In some cases, as in Indiana, passage of a general law put a stop to the adoption of special aid legislation. In the majority of states, special laws continued to be adopted while general laws were on the books, sometimes modifying their terms but sometimes appearing merely to repeat them.

It should also be noted that permissive legislation does not necessarily mean that aid was actually given. On the other hand, absence of legislation does not always indicate absence of local aid. This is most marked in the early period, before the courts generally prohibited local aid without state authorization, and during Reconstruction, but see also foonote (p) below.

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[a] Louisiana parishes are treated as counties. Laws authorizing municipal aid did not always apply to all types of municipality. Certain of the more conspicuous limitations are indicated in notes below, but for fuller information see Table II.

[b] 1870–1874: towns with population under 12,000; 1874–....: towns or cities with population under 30,000.

[c] Districts, cities, towns; villages added in 1881. [d] 1867: cities, towns; townships added in 1871.

[e] Cities, townships, and villages if the township in which the village was located had not given aid. The Michigan courts decided that local aid violated a prohibition against state aid in the state constitution after 1870.

[f] Most county aid was stopped in 1875. See Table II, note u.

[g] The 1867 law refers to cities. Townships were added in 1869.

[h] Ohio's constitution prohibited local aid in 1851. These laws permitted local governments to construct and operate, lease or sell railroads. They were framed as general laws, but usualy specified such narrow population limits that they are indexed under the names of particular political units. A large number of them were declared unconstitutional, but not all, e.g., Cincinnati's authorization to build the Cincinnati Southern.

[i] The 1850 provision was a section referring to county aid in general at the end of a special law (Chapter 106, section 6, p. 191, March 6, 1850). Although a repealing act could not be found, it does not appear in the 1854 code. The 1872 law, amended in 1873, does not appear in the 1880 code. An 1882 law authorizing county, city and town aid is restricted to six counties, with three more counties added in 1888.

[j] 1869: cities and precincts; 1879–1885: precincts, townships and towns smaller than cities of the second class; 1885–....: precincts, townships, villages.

[k] From 1874 to 1876 local aid was prohibited except for counties and townships which had not issued bonds for this purpose.

[l] Cities were covered from 1865 to 1874 and from 1876–. Towns and villages were included from 1868 to 1874; townships from 1872 to 1874 and after 1876. [m] Between 1858 and 1869, Iowa courts declared local aid unconstitutional.

[n] Cities were covered, 1853–1875; townships added in 1868, towns in 1872.

[o] Counties which had internal improvement funds or credits only.

[p] Although no authorizations could be found, there are several instances of local aid in Oregon (Portland, Yamhill County, etc.). A general law in 1913, like the Ohio law following constitutional prohibition, permitted cities and towns to acquire, build, own and operate railroads.

[q] The 1870 law refers to counties and San Francisco (city and county). It continued in effect for eight counties from 1872 to 1874.

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## TABLE II

### General Laws Authorizing Local Aid to Railroads, 1830–1889

| Region and State | Dates in Force [a] | Authorities Included | Forms of Aid [b] | Methods of Raising Aid [c] | Restrictions on Borrowing | | Maximum Amount of Aid [f] | Voting Requirements [g] |
|---|---|---|---|---|---|---|---|---|
| | | | | | Maximum Interest [d] | Repayment [e] | | |
| *New England* | | | | | | | | |
| Maine .. | 1867–.... | cities, towns | ..... | tax, bonds | .... | fund | 5% | ⅔ vote |
| N. H. ... | 1864–1877 (1877) | cities, towns | ..... | tax, bonds | .... | fund | 5% | ⅔ vote |
| Vt. ..... | 1872–.... | cities, towns | ..... | ..... | 7% | .... | 8% [h] | petition (10) and majority in number and value |
| Mass. ... | 1870–1874 | towns, population under 12,000 | stock, bonds | ..... | .... | .... | 5% | ⅔ vote |
| | 1874–.... | towns, cities population under 30,000 | stock, bonds | ..... | .... | .... 1876: tax | 2%, 5% [i] 1876: 3% [j] | ..... ⅔ vote |
| *Middle Atlantic* | | | | | | | | |
| N. Y. ... | 1869–1874 (1874) | municipal corporations [l] | stock, bonds | bonds [m] | 7% [n] | tax, fund | 20% | majority [k] in number and value |
| *South Atlantic* | | | | | | | | |
| W. Va. .. | 1863–1873 | counties | stock | ..... | .... | .... | 1% [o] | ⅔ vote |
| | 1873–.... | counties, towns, districts, cities 1881: villages | stock | cash, bonds | .... [p] 1881: 6% | tax, fund | 5% [j] | ⅔ vote |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Va. ..... | 1848–.... | counties<br>1867: cities, towns<br>1871: townships | stock | tax, bonds | ....<br>1867: 10% | .... | ⅓ of railroad's stock<br>1871: ⅓ of railroad's stock; 0.2% [o]<br>1875: 17%, 15% [j] | ⅔ vote [q]<br>1851: ⅔ vote<br>1871: ⅔ vote [r] |
| North Carolina | 1869–.... | counties | stock | ..... | 8% | .... | .....<br>1889: 10% [j] | majority vote |
| Florida .. | 1855–1875 (1875) | counties, cities, towns | stock | tax, bonds | 10% | tax or fund | ½ construction cost in county | majority vote |
| *East North Central* | | | | | | | | |
| Wisc. ... | 1872–.... | counties, cities, towns, villages | stock<br>1875: bonds [s]<br>1876: guarantee [s] | tax, bonds | .... [n] | ....<br>1874: tax | 10% [j] (sum of county and municipal)<br>1874: 5% [j]<br>1875: 5% [o] | majority vote<br>1873: or majority petition |
| Mich. ... | 1869–1870 [t] | townships, cities, villages where township has not aided | loans, gifts | bonds | 10% | tax | 10%, 5% (Detroit) | petition (30), [k] majority vote |
| Ill. ..... | 1849–1870 (1870) | counties, cities | stock | bonds [m] | 10% [p] | ....<br>1869: fund | $100,000 | majority of voters |
| Ind. ..... | 1867–.... | cities | stock, gifts | tax, bonds | .... | tax, fund | ..... | petition (majority [r]) |
| | 1869–.... | counties, [u] townships | stock, gifts | tax | .... | .... | 2%<br>1881: 2% [j] | petition (100, county; 25, township) and majority vote |

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TABLE II—(*Continued*)

GENERAL LAWS AUTHORIZING LOCAL AID TO RAILROADS, 1830–1889

| Region and State | Dates in Force [a] | Authorities Included | Forms of Aid [b] | Methods of Raising Aid [c] | Restrictions on Borrowing | | Maximum Amount of Aid [f] | Voting Requirements [g] |
|---|---|---|---|---|---|---|---|---|
| | | | | | Maximum Interest [d] | Repayment [e] | | |
| *East South Central* | | | | | | | | |
| Tenn. ... | 1852–.... | counties, cities, towns | stock | tax<br>1887: bonds | ....<br>1887: 6% | ....<br>1887: tax | .....<br>1858: 1/15, $1,000,000 [v]<br>1871: 10% | majority vote<br>1854: majority of voters<br>1870: ¾ vote [w] |
| Miss. ... | 1850–1854 [x]<br>1872–1880 [x]<br>(1890) | counties<br>counties, cities, towns | stock<br>stock | tax<br>bonds | ....<br>7% | ....<br>tax | .....<br>..... | ⅔ vote<br>⅔ vote |
| Ala. ..... | 1868–1875<br>(1875) | counties, cities, towns | stock | bonds | .... | tax | 1% (counties), [o]<br>2% (cities, towns) [o] | majority vote |
| *West North Central* | | | | | | | | |
| Neb. .... | 1869–.... | counties, cities, precincts<br>1879: townships<br>1879–1885: towns, populations under 500<br>1885: villages | .....<br>1875: gifts | bonds | ....<br>1885: 8% | tax [y]<br>1879: tax, fund | 10% | majority vote<br>1875: ⅔ vote<br>1879: petition (10) [q] and ⅔ vote<br>1885: petition (50) [q] and ⅔ vote |

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| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Kans. ... | 1865–1874 | counties, cities 1868–1872: towns, villages | stock<br>1868–1872: stock, loans | bonds 1868–1872: tax, bonds | 7%<br>1869 [n] | tax, fund | $300,000 per county per railroad; $250,000 per city per railroad<br>1866: above, up to $1,200,000 (counties), $600,000 (cities) | majority vote<br>1866: and petition (1/2) |
| | 1870–1872 | townships | stock | bonds | .... | tax, fund | 1% [o] | petition (50) and 2/3 vote |
| | | | | | 1872–1874: 10% | | 1872–1874: 10% plus [s] | 1872–1874: petition (1/3) and majority vote |
| | 1874–1876 | counties and townships with no previous aid bonds | stock, gifts | bonds | 7% | tax, fund | 5% | petition (2/3) and 2/3 vote |
| | 1876–.... | counties, townships, cities | stock, bonds, loans [aa] | tax, bonds [aa] | 10% [aa] | tax, fund | ..... [aa] | petition (2/3) and 2/3 vote<br>1877: majority vote |
| | 1886–.... | cities | gifts [cc] | bonds | 6% | tax, fund | $30,000, [bb]<br>$20,000 [bb] | petition (2/3) and majority vote |
| Minn. ... | 1877–.... | counties, towns, cities, villages | stock, gifts<br>1879: bonds | bonds, tax | .... [n] | tax | 10% [t]<br>1878: 5% | majority vote (and majority of election precincts for counties)<br>1877–1879: or petition (majority [x]) |
| Iowa .... | 1858–.... [dd]<br>1868–1872 | counties<br>townships, cities, towns | gifts<br>gifts | lands [dd]<br>tax | ....<br>.... | ....<br>.... | ..... [dd]<br>5% | majority vote<br>petition (1/3) [dd] and majority vote |

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TABLE II—(*Continued*)

GENERAL LAWS AUTHORIZING LOCAL AID TO RAILROADS, 1830–1889

| Region and State | Dates in Force [a] | Authorities Included | Forms of Aid [b] | Methods of Raising Aid [c] | Restrictions on Borrowing | | Maximum Amount of Aid [f] | Voting Requirements [g] |
|---|---|---|---|---|---|---|---|---|
| | | | | | Maximum Interest [d] | Repayment [e] | | |
| *West North Central (cont.)* | | | | | | | | |
| Iowa .... (*cont.*) | 1876–.... | townships, cities, towns | gifts | tax | .... | .... | 5% | petition (majority) [k] and ⅔ vote<br>1878: majority vote |
| | 1882–.... | towns, cities | gifts [cc] | ..... | .... | .... | ..... | petition (majority) and ⅔ vote |
| Mo. ..... | 1853–1875 (1875) | counties, cities | stock | bonds, tax, invest county funds | .... | .... | ..... | ..... |
| | | | | | | 1871: tax | 1871: 10% | 1860: majority vote [cc]<br>1861: majority vote<br>1865: ⅔ vote |
| | 1868–1875 | townships 1872–1875: towns | stock | tax, bonds | 10% | tax | .....<br>1872: 10% [l] | 1868–1875: petition (25) and ⅔ vote |
| | 1870–1875 | cities, towns | gifts [cc] | tax, bonds | .... | .... | ..... | majority vote<br>1872: ⅔ vote |
| *West South Central* | | | | | | | | |
| Arkansas | 1855–1874 (1874) | counties [ff] | stock | ..... | .... | .... | ..... | ..... |
| | 1873–1874 | counties, cities, towns | stock, gifts | bonds | 10% | tax, fund | 10% [l] | petition (100) and majority vote |

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| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Texas ... | 1866–1870[gg] (1876) | counties, cities, towns | stock, loans | tax | .... | .... | ..... | petition (county: 100; [q] city, town: 25 [q]) and ⅔ vote |
| | 1871–1874[hh] | counties, cities, towns | stock, loans, gifts | tax, bonds | 10% | tax, fund | 20%; 10% per railroad; 2% per year [o] | petition (50) [q] and ⅔ vote |
| Louisiana | 1852–1880 | parishes, municipal corporations | stock | tax | .... | .... | ..... | majority vote |
| | 1880–.... | parishes, cities, towns | ..... | tax | .... | .... | 25% [o] | petition (⅓) and majority in number and value |
| *Mountain, Pacific* | | | | | | | | |
| California | 1870–1872[ii] | counties, San Francisco | ..... | bonds | 7% | tax | 5% | majority vote |

[a] Open-ended dates mean law continued in effect after 1889. Dates in parentheses represent years when constitutional prohibitions against local aid went into effect. Dates in other columns indicate when the relevant provisions were changed or new provisions added.

[b] *Stock:* subscriptions to capital stock of railroads. *Gifts:* outright donations of money, land, etc. *Bonds:* local governments may buy railroad bonds. *Guarantee:* local governments may guarantee repayment of interest and/or principal of railroad bonds. *Loans:* may mean purchase of railroad bonds, endorsement or guarantee, or loan of local government bonds, with or without collateral. Occasionally the legal term is ambiguously "loan of credit".

[c] *Tax:* money or goods or services to aid railroads to be raised by taxation. *Bonds:* aid to be raised by issue of local government bonds. These may be sold, and the proceeds turned over to the railroads (as gifts, subscriptions, etc.), or may be exchanged for railroad securities directly.

[d] Percentages represent maximum interest charges on local government bonds.

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TABLE II—(*Continued*)

GENERAL LAWS AUTHORIZING LOCAL AID TO RAILROADS, 1830–1889

[e] *Tax:* must levy annual tax to repay interest and principal as due. *Fund:* must set up sinking fund for repaying principal before it comes due.

[f] Percentages refer to taxable property, amounts to absolute limits. Unless otherwise indicated, these are maximum amounts of aid to railroads for the individual local government. These limits are taken largely from constitutional and railroad-aid provisions. Other legislation affecting local debt creation or tax limits was not examined.

[g] Numbers in parentheses after petitions refer to minimum number of signers. Unless specified, fraction of vote refers to number of votes cast. Petition *and* vote usually indicates petition is required before vote can be called. Petition *or* vote indicates alternative procedures for ratifying aid. Majority in value refers to value of taxable property.

[h] The maximum is referred to as "eight times the grand list", which includes poll taxes plus one per cent of taxable property.

[i] 2% for towns valued over $3,000,000; 5% for towns valued at $3,000,000 or less.

[j] Aggregate debt limit. Virginia in 1875 had a debt limit of 17% of real plus 15% of personal property.

[k] Of taxpayers. This is occasionally "resident" taxpayers. In New York it includes companies and corporations explicitly.

[l] These include cities, towns and incorporated villages. There were certain exceptions to the original law which were altered several times during the 1870's.

[m] Local bonds may be sold or exchanged for railroad securities. [n] Exchange for securities must be at par.

[o] Tax limit. For Iowa: 1% a year for two years; for Louisiana: 2½% a year for ten years.

[p] Bonds must be disposed of at par. [q] Of freeholders. This is occasionally "resident" freeholders.

[r] This ⅔ vote is to include a majority of the registered voters and a majority of freeholders.

[s] First mortgage bonds of railroads. [t] Court decisions in Michigan declared local aid unconstitutional in 1870.

[u] County aid was stopped in 1875 except where votes had already been taken or where a railroad was started with aid from some counties on its line. In the latter case, other counties on the line could vote aid if they had not already rejected it. An 1879 law permitted county commissioners to pay the railroad aid debts of local residents under certain restrictions.

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[v] Aggregate aid may be 1/15 of taxable property but not over $1,000,000.

[w] Twenty-six counties retained a majority vote until 1880. [x] Not in law code of this year. See note j, Table I.

[y] No taxes for principal of new issues until after 1880.

[z] Aggregate debt limits: 10% of taxable property plus: $100,000 for counties valued up to $3,000,000; $300,000 for other counties. Townships valued under $200,000: 10% plus $600 per mile of railroad in the township.

[aa] Two general laws offered alternative methods of aid. Loans could be made to railroads requiring collateral of first mortgage bonds, equal to 80% of the loan. Railroad first mortgage 7% bonds could be exchanged for local government 10% bonds at not less than 90% of par, with not over $8,000 per mile of first mortgage bonds to be issued by the railroad. The maximum amounts of aid, for stock subscriptions or "loans of credit", are: $4,000 per mile of railroad in the local unit, with $100,000 plus 5% for counties and $15,000 plus 5% for townships. For buying railroad bonds (or exchanging government bonds for them) counties and townships were limited to $4,000 per mile and cities to $15,000 plus 5%. In 1877 there was a reduction to $2,000 per mile.

[bb] $30,000 per railroad for cities of the first class; $20,000 per railroad for cities of the second class.

[cc] For railroad rights of way, depot grounds, machine shops and/or other terminal and repair facilities.

[dd] Counties with swamp lands may donate these or proceeds of their sale to railroads. However Iowa courts held local aid unconstitutional from 1858 to 1869.

[ee] The 1853 law permitted votes to be held, and in 1860 these were required, but in both cases only "for the information" of the county courts and city councils. In 1861 the recommendation of the vote had to be obeyed.

[ff] Counties with internal improvement funds or credits.

[gg] Aid to any company or corporation: not repealed, but not among 1870 powers.

[hh] Repealed in 1874 except for 12 counties; these exceptions were increased and altered several times until constitutional prohibition in 1876. [ii] See note q, Table I.

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must raise its contribution solely by current taxation. The great majority of laws expressly permitted either taxation or borrowing or made no restriction. Bonding was the common recourse, and much of the effort of the legislators was devoted to the attempt to surround the process with certain safeguards. Maximum rates of interest were laid down, and in a number of cases these were buttressed by provisions requiring that the bonds must not be sold to investors or accepted by the railroads at less than par. Several laws specified that the aid should be given by means of "the exchange of securities" between government and railroad, and quite commonly it was the bonds themselves rather than the proceeds from their sale that were handed over to the roads. Other clauses attempted to ensure orderly provision for repayment, either by the establishment of sinking funds or by the requirement that the debt service be met entirely from current taxation. "In the interest of good government and of economic administration," as a North Carolina statute put it,[5] the amount of aid that might be given was generally limited, sometimes to a specified sum, more often to a percentage of the assessed valuation, and in still other cases by reference to a debt limit provided in the act itself or by constitutional provision.

Other intended safeguards relied on the methods of initiative and referendum. Though a proposal for aid could often be initiated by the municipal or county authorities, and in some cases by the railroad company itself, the laws frequently required a petition signed by a specified number or proportion of voters or property-holders. The greater number of laws, moreover, provided that the proposal be submitted to an election and required the affirmative vote of a specified majority of voters or property-holders or both and sometimes of a majority "both in number and value."

Other provisions too varied to tabulate were inserted in the legislation to make sure that the communities would really get railroads built in return for the sacrifices they were binding themselves to make. A Nebraska statute opened with the following declaration of purpose: "To prevent railroad corpora-

[5] N. C., 1889, ch. 486, p. 459.

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tions to impose upon the people by bogus surveys ".[6] To this end the laws often specified that the contribution should not be paid over until the corporation had raised a certain proportion of its capital from other sources, or until it had spent a certain amount of money within the contributing county or township, or until the roadbed was prepared or the track was laid or trains were running to a specified point. Other clauses protected the right of local authorities to vote their stock and in some cases to have assured representation on the boards of directors.

On these and on many other points the special laws could be and often were more specific. Recitations of " public use and benefit " were common to the preambles of both general and special laws, but the latter sometimes put the motives for aid in particularly concrete form. Cumberland, for example, would have more jobs if the B. & O. were helped to make its proposed improvements. A Minnesota enterprise needed a " bonus " as a stimulus to " speedy resumption of work." [7] The preamble to a North Carolina law in Reconstruction days recited the difficulty of obtaining subscriptions in money and authorized local governments to pay in kind. Another permitted the individual taxpayer to pay the equivalent of his railroad tax directly to the company " in kind, that is to say, in agricultural products." [8]

In some cases the special laws permitted still greater variations in substance. Local governments were occasionally given the power to build railroads and not merely to aid them. Cincinnati set an example in Ohio by building the Cincinnati Southern as a city enterprise when the state constitution forbade municipalities to extend *aid* to railroad corporations.[9] In other cases the authorization was merely to construct a branch line to an existing railroad. A Maryland law provided an interesting variant on the requirement for consultation. Under it the authorities of Baltimore might propose to the electors

[6] Neb., 1879, p. 151.

[7] Md., 1890, ch. 229, p. 254; Minn., 1868, ch. 20, p. 38.

[8] N. C., 1866-67, ch. 89, p. 132; 1872-73, ch. 174, p. 290.

[9] Footnote (h) to Table I and Goodrich, " Revulsion ", p. 151.

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that the city buy a controlling interest in the Richmond and Danville, provided the measure first received the approval of the board of trade, the corn and flour exchange, and the merchants and manufacturers association! [10]

The special laws frequently spelled out in particular detail just what the railroad must do in order to qualify for receipt of the subscription or loan or donation. In some cases, especially for the larger cities, they contained specific provisions for the naming of government directors. A common preoccupation—in special and general laws alike—is illustrated by the Illinois statute which provided that the governments extending aid to a railroad should collectively name one fourth of the board of directors *until the railroad was completed*.[11]

In sharp contrast to these measures for supervision of the government investments stood a set of provisions for the distribution of publicly subscribed stock among private individuals. These were based on the belief that it was "inexpedient that the administration of the stock thus subscribed should remain under the control of the local authorities . . . that it ought to be distributed among those whose property had been taxed for its payment," and that each taxpayer would thus be "stimulated by personal interest to a vigilant supervision of the conduct of the work." [12]

In accordance with these ideas, general laws in Alabama, Florida, Indiana, Iowa, Louisiana, Missouri and Tennessee, and certain special laws in these and ten other states of the South or West, provided that the individual who had paid a railroad tax should be entitled to a corresponding amount of the stock of the railroad company.[13] In Tennessee he might use his tax

[10] Md., 1884, ch. 298, p. 409. [11] Ill., 1868, p. 320, sec. 8.

[12] The quotations are from resolutions adopted by the Southwestern Railroad Convention held at New Orleans in 1852. J. D. B. DeBow, *Industrial Resources, etc. of the Southern and Western States* (New Orleans, 1852-53), vol. II, pp. 458-459. The opinion in *Police Jury* v. *McDonogh* refers to the influence exerted by these resolutions (8 La. An. 360).

[13] Ala., 1868, ch. 172, p. 514; Fla., 1854-5, ch. 610, p. 17; Ind., 1872, ch. 35, p. 54; Iowa, 1876, ch. 123, p. 110; La., 1852, act #175, p. 128; Mo., 1868, sec. 4, p. 93; Tenn., 1851-2, ch. 117, p. 161. The Iowa law was amended to permit distribution of railroad bonds as well as stock to taxpayers (1878, ch. 173, p. 162).

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receipt to pay his freight bill instead or to buy a railroad ticket.[14] The individual who had made a voluntary subscription could frequently claim corresponding exemption from the railroad tax, and conversely payment of the tax would occasionally serve to relieve him of a previous agreement to make a private subscription.

Thus under stock distribution the lines between private purchase and government action were often blurred, and provisions advocated on the ground that they would promote the vigilance of individuals were brought into the local aid legislation alongside the many clauses intended to ensure vigilance on the part of the public authorities.

### *Local Aid in Practice*

Two thousand laws are not automatically translated into so many miles of railroad or even into so many hundred thousand dollars of investment or subsidy. The legislative record shows how widely and for how long a period the policy of local government participation in railroad building approved itself to American legislators. It does not show which projects were carried out and which abandoned or the spirit in which they were conducted. On all this our present knowledge, though notably increased by recent studies, is far from complete. It would be difficult to arrive at a numerical total of the amount of aid, since payments were made in kind as well as in cash and still more frequently in municipal and county bonds, which often sold at a discount, and since the public authorities might or might not be called upon to make good on their endorsements of railroad securities. The order of magnitude may be suggested by reference to four localized studies—for Missouri, for New York, for the ante bellum South, and for Pennsylvania, Maryland and Ohio also before 1861—which together

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The ten other states which authorized stock distribution in one or more special laws are: Arkansas, Georgia, Kentucky, Mississippi, North Carolina, Ohio, South Carolina, Texas, Virginia and Wisconsin. For a list of cases involving stock distribution, see Edward L. Pierce, *A Treatise on the Law of Railroads* (Boston, 1881), p. 95.

[14] In *Mobile and Ohio Railroad Co.* v. *Wisdom*, 52 Tenn. 125, the court required the railroad company to honor some $24 of these receipts in payment for transportation.

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report local aid to the amount of about one hundred and fifty million dollars. Full quantitative analysis will not be possible until other states and periods have been studied with similar care.[15]

The peak of this local activity was reached in the years between the close of the Civil War and the panic of 1873. The movement is vividly reflected in the pages of the *American Railroad Journal*, which contain a wealth of references to local aid—past, present and proposed. Taking account only of cases of affirmative action currently reported, the *Journal* in the seven years from 1866 to 1872, inclusive, cites decisions by local government authorities in 27 states to give aid to no less than 138 railroad undertakings. The governments extending this assistance include—in addition to a number not specified by name—122 municipalities and 70 counties. The cases come from widely scattered parts of the country, and differ greatly in amount. Buchanan County, Missouri, votes $4,000 in bonds for the St. Louis and Denver, and Benton Township $7,800 for the Peninsular Railroad of Michigan. The town of Colchester, Connecticut, plans to spend about $30,000 for the branch it is

[15] In round numbers the figures are as follows: Missouri, $26,000,000; New York, $37,000,000; ante bellum South (not including Missouri and Maryland), $55,000,000; for 1834-1861, Pennsylvania, $16,500,000, Maryland, $11,000,000, Ohio, $8,000,000. Edwin L. Lopata, *Local Aid to Railroads in Missouri* (New York, 1937); Harry H. Pierce, "Local Aid to Railroads in New York", unpublished doctoral dissertation, Cornell University, 1949; Milton S. Heath, "Public Railroad Construction and the Development of Private Enterprise in the South Before 1861", *Journal of Economic History*, Supplement X (1950), pp. 40-53; Harvey H. Segal, in a study being carried on under a resident fellowship at Columbia University awarded by the Committee on Research in Economic History.

The total aid found in these studies is very much greater than would be suggested by Federal Coordinator of Transportation, *Public Aids to Transportation*, vol. II (Washington, 1938), pp. 1-3, 53-71, 118-163, 133. The four localized studies total some $154,000,000. The Coordinator's figures for the entire country and the entire period reach a total of a little over $110,000,000 definitely attributed to local governments plus an indeterminate share of some $31,000,000 of unspecified public subscriptions and an indeterminate share of some $37,000,000 of public and private contributions in aid of railroad construction. Neither set of figures includes local land grants or tax exemptions. The discrepancy between the two is to be explained partly by the fact that the Coordinator excluded aid given to railroads which became defunct but mainly by the fact that the full amount of local aid cannot be read from the Valuation Reports and similar documents of existing railroads, on which the official report is principally based. For explanation of its methods, see vol. II, p. 56, ftn. 75.

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building to connect with " the air line railroad." [16] But not all the figures are so insignificant. The New York, Oswego and Midland receives admiring notices in the press, almost to the eve of its failure in 1873, for its achievement in raising nearly six million dollars in municipal bonds from the communities along its line in upstate New York.[17]

At one extreme stand the railroad investments of the city of Baltimore. Early in 1870 the municipal accounts show outstanding loans to railroads of more than eight million dollars and the ownership of nearly three and three-quarter millions of railroad stock, in addition to endorsements of railroad obligations of nearly two millions and almost a million dollars in tax and other claims against the aided roads. But even these large figures—totaling nearly fifteen million dollars in actual investment or contingent liability—are taken only in mid-career of the city's program of railroad promotion. In the preceding year the authorities had commissioned an engineer and an accountant to examine the prospects of the Western Maryland and had sent out an agent to explore the merits of a proposal for a railroad on the Eastern Shore. In the year 1870 itself, the city made two substantial additional commitments—endorsing two millions of the securities of the Western Maryland and subscribing another million to the stock of the Valley Railroad of Virginia—before the voters finally rejected the further proposal of the city councils to guarantee $750,000 of the securities of the Lynchburg and Danville.[18]

Municipal plans of this scope and magnitude were, however, the exception rather than the rule; and most of the decisions to grant aid were made by communities with smaller resources or more limited aims. In this respect the record of aid in Indiana —in which no city made an investment comparable to that of Baltimore, but in which aid was voted to railroads by a large number of communities of various sizes—is somewhat more representative of the movement as a whole.

[16] 41 ARJ (1868), 152; 45 ARJ (1872), 454.

[17] 42 ARJ (1869), 901; *ibid.*, 1317 (New York *Tribune*); 46 ARJ (1873), 1090 (Albany Evening *Journal*); Indianapolis *Sentinel*, Nov. 16, 1872.

[18] 43 ARJ (1870), 233; 42 ARJ (1869), 596, 989; 43 ARJ (1870), 279, 371, 399, 645, 1209.

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Indianapolis, to be sure, called itself "the railroad city" and was proud of the twelve railroads which had reached it by 1870. Its position as the hub of radiating lines, which had been contemplated in the early state plans for internal improvements,[19] owed something to local government aid. By 1872 the city itself had donated $60,000 "of the people's money" to the Junction Railroad, its township (Center) was taxed $65,000 for the Indiana and Illinois Central, and its county (Marion) had paid $120,000 to aid three railroads connecting the city with the coal fields of western Indiana.[20] Four years later Indianapolis issued $500,000 in bonds to build its municipal Belt Railroad, and propositions for further railroad aid continued to find support in its newspapers for the remainder of the century.[21]

But the railroad movement in Indiana was not primarily a metropolitan one. Scores of subsidies, loans and subscriptions were voted by cities, towns, townships and rural counties over a period of at least seventy-five years.[22] The amounts in question were often small and in a number of cases under ten thousand dollars. Though an accurate total could not be ascertained without a study of the financial records of the local governments themselves, an incomplete check based on local histories and other scattered sources shows approval at the polls of some eight million dollars in local aid.[23]

As in other states, the movement for local aid showed varia-

[19] W. R. Holloway, *Indianapolis* (Indianapolis, 1870), is subtitled *A Historical and Statistical Sketch of the Railroad City.*

[20] Resolution of city council quoted in Indianapolis *Sentinel,* Dec. 31, 1872. The council recommended rejection of a current proposal to give $500,000 to another "coal road", and it was defeated at the polls on Jan. 9, 1873. *Sentinel,* Jan. 10, 1873.

[21] Jacob P. Dunn, *Greater Indianapolis* (Chicago, 1910), vol. I, ch. 23. Indianapolis *Sentinel* and *Journal,* 1875, 1877, 1881, etc., *passim.*

[22] For an 1837-38 case see *History of Northeast Indiana,* under the editorial supervision of Ira Ford, Orville Stevens, William H. McEwen and William H. McIntosh (Chicago and New York, 1920), vol. I, p. 37. For 1911 payments see *Second Annual Report of the Department of Inspection and Supervision of Public Offices of Indiana* (Indianapolis, 1913), p. 537.

[23] Sources included local histories, newspapers and Interstate Commerce Commission reports. The total of $8,000,000 includes only cases of local aid in which the vote was reported as favorable and in which the amount was stated in dollars.

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tions from period to period which were related both to business conditions and to changes in legislation. Before the Civil War local aid required authorization by railroad charter or special acts of the legislature, and some sixteen counties and ten cities took advantage of such authorizations. The most important era, however, followed the close of the War and was based on general legislation providing both for stock subscriptions and for donations. The law for city aid was adopted in 1867 and that for counties and townships in 1869. The latter was described by the Indianapolis *Sentinel* as "probably the most important act passed at the recent session of the Legislature." Within four months of its adoption, the Frankfort *Crescent* reported that twenty-five elections had been held under its provisions and that aid had been refused "in one single instance only." [24] Between 1865 and 1875 affirmative action was ordered in thirty-six township, twenty-eight county and twenty-five city votes.

The crisis of 1873 checked the movement for railroad aid. Many railroad schemes had to be abandoned, and in some cases money had to be refunded to the taxpayers.[25] LaGrange County, which had failed in its early efforts to encourage railroads and had finally in 1870 welcomed the arrival of the Grand Rapids and Indiana with "the roars of cannon", voted down an appropriation of $98,000 for the New York and Chicago Air Line in 1873. "A panic come on in the United States at that time," explained the local historian, "and the matter there ended forever." [26]

Despite the depression, the sections of the state which still wanted railroad connections were strong enough to prevent the repeal of the aid laws, though they were made somewhat less liberal.[27] Between 1876 and 1886, aid was voted by forty-three townships and two cities. A change in the law at the end of the seventies casts light on the nature of the interests of the

[24] Indianapolis *Sentinel*, May 21, 1869; Aug. 30, 1869 (quoting Frankfort *Crescent*).

[25] For example, in Brazil and Washington townships, Clay County, in 1874. The North and South Railroad "was graded as far as Brazil; then abandoned." Charles Blanchard (ed.), *Counties of Clay and Owen, Indiana* (Chicago, 1884), p. 53.

[26] Ford, *et al.*, *op. cit.*, p. 37. [27] In 1875 and 1881. See Table II, note u.

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communities. A court had held in 1877 that, since the word "donation" meant free gift, a local government could not impose terms on the railroad as a condition of its donation. In 1879, an amendment to the law provided expressly that a subscription or donation could be accompanied by a contract with the company making aid conditional on such terms "as to freight, rates, location of machine shops, depots" as might be specified in the election petition.[28] Fort Wayne had bargained for and received railroad shops before passage of this amendment, and by a contract under its provisions Frankfort secured the machine shops of the Clover Leaf in 1881.[29]

Between 1889 and 1891, and again at the end of the nineties, votes favorable to railroad aid were still being reported, though much less frequently than in the earlier years. The aid laws remained on the books and continued to be used from time to time until well into the twentieth century.[30]

### *The Interests of the Railroads*

Analysis of the process of local aid may be approached by an examination of its significance to the two parties directly concerned—the railroads and the communities. To the railroad system as a whole, local governments were furnishing only a small fraction of a total capital which by 1880 exceeded five billion dollars in permanent investments.[31] By the end of the

[28] *Indiana North and South Rail Way Company* v. *The City of Attica*, 56 Indiana 476. Ind., 1879, ch. 27, p. 46.

[29] T. B. Halm, *History of Allen County, Indiana* (Chicago, 1880), p. 120. The Indianapolis *Sentinel*, Feb. 11, 1881, announces the terms of the Frankfort (Center Township, Clinton County) vote. Interstate Commerce Commission, *Valuation Docket 83*, records the donation.

[30] The city of Peru, which voted aid to the Chesapeake and Ohio in 1901, managed in the following year to evade its debt limit in order to secure location of the road's machine shops and roundhouses. It did this by an elaborate operation involving the creation of a Park Association as an intermediary. Arthur L. Bodurtha (ed.), *History of Miami County, Indiana* (Chicago, 1914), vol. I, pp. 258-263.

The laws were extended to interurban and street railways in 1903. Ch. 134, p. 233. In 1927 their application was limited to cases in which "a railroad has been abandoned and a new company has been organized to operate such railroad." Ch. 21, p. 55.

[31] *Eleventh Census*, 1890, "Report on the Transportation Business", Part I (Washington, 1895), p. 13, Henry Carter Adams, Special Agent.

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sixties, some railroad presidents were already boasting, though still with something of an air of surprise, that their lines were being financed without government aid of any kind.[32] The annual reports of certain old established roads had begun to criticize the "habit" of easy local aid and to show concern over competition from subsidized companies, and there were cases in which "the railroad interests" were accused of working to defeat proposals for aid to new companies.[33]

The degree of reliance on local government aid thus varied with the state of railroad development. After the Civil War, local aid did not play for the greater and more prosperous companies the decisive rôle that a combination of state and local aid had often played in the earlier period or that federal aid was currently playing in the case of the Pacific railroads. The Baltimore and Ohio was alone among the great trunk lines in continuing to come to the authorities of its parent city for much of the capital for the extension of its system. The Western Maryland was also largely a municipal investment of Baltimore. Elsewhere in the older and richer states, the companies which relied most heavily on local aid were likely to be those that were badly located or that traversed the poorer sections, like the Midland of New York or the Central Massachusetts. More lordly companies, however, were glad to accept spurs and branch lines turned over to them by contributing communities. In the South and in northern New England, local aid was a common and important recourse. It was still a major factor in filling in the railroad map of the Middle West. The *American Railroad Journal* reported that the largest increase in mileage during 1870 had been in Illinois, Iowa, Missouri and Kansas where it had been "stimulated to the utmost by town and county subscriptions."[34]

[32] 42 ARJ (1869) 1044; 43 ARJ (1870) 538. See also 39 ARJ (1866) 462; 40 ARJ (1867) 242.

[33] Michigan Central, 43 ARJ (1870) 818; Chicago, Burlington and Quincy, 43 ARJ (1870) 986-987; Indianapolis *Journal*, Sept. 15, 1869; Indianapolis *Sentinel*, Aug. 27, 1869.

[34] 42 ARJ (1869) 1154; 43 ARJ (1870) 289, 477; 45 ARJ (1872) 454; 44 ARJ (1871) 3.

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In short, the capital supplied by local governments was indispensable to the promoters of a number of companies and most welcome to many others. Sometimes this consideration affected the form of organization. The lines between Port Huron and Chicago, for example, were first set up as four different companies. "It was believed that *municipal aid* could in this manner be more readily obtained from the cities and counties along the route, as all experience in this direction goes to show that such communities are far more interested in and more ready to assist small and purely local enterprises directed and urged on by the principal men of the section." After enough local capital had been secured "to place the roads in readiness for the superstructure, it was intended to consolidate the four roads into one." [35]

Railroad officials were often complimented on their success in convincing legislatures and in arousing enthusiasm in public meetings along the projected lines. The Corning *Journal* praised the Hon. J. Ramsay, President of the Albany and Susquehanna, for "indefatigable exertions" made on behalf of the railroad before, during and after his term as a state senator. President Littlejohn of the New York, Oswego and Midland, whose name was described as "itself a tower of strength in the Midland counties," won support for his road in a series of notable public meetings.[36]

In the course of such campaigns, the railroads and their agents—and such middlemen as "speculating contractors" [37] —were often accused of sharp practice. In one Iowa case, for example, it was established that all fourteen of the voters who had taken part in an election in Lost Island township had accepted offers from a railroad agent of a substantial fraction of the aid they were voting! Other accusations were of improper

[35] 42 ARJ (1869) 1265.

[36] 40 ARJ (1867) 223; 39 ARJ (1866) 462, 541; 43 ARJ (1870) 37. See Harry H. Pierce, *op. cit.*, for picturesque detail.

[37] These were particularly condemned both by President Joy of the Burlington and by Joy's critic, Charles F. Adams, Jr., for fleecing local communities by building unprofitable roads. 43 ARJ (1870) 987; *Nation*, vol. 20 (March 4, 1875), pp. 148-149. Adams' letter to the editor, which is signed "Good Intentions", gives details on the fraudulent operations of one set of contractors.

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influence in the legislatures and of fraud in influencing local elections, either by bringing in fraudulent voters " by the carload " or by making false promises to the electorate.[38]

### *The Interests of the Communities*

There is no question of the enthusiasm with which great numbers of communities welcomed—and indeed often initiated—proposals for railroad aid. The majority of elections had affirmative results, and the press was characteristically favorable. " The Portland papers urged the matter with all zeal." So did those of many other cities from Maine west across the country. " The workingmen and enterprising businessmen " of an Indiana community were reported as jubilant after a favorable vote. Advocates of railroad aid were credited with displaying a " proper spirit of enterprise." [39] On the other hand, those opposing railroad aid were likely to be described as barnacles or as suffering from " moral marasmus "; and one paper sadly declared that an adverse vote had been cast by " Indianapolitans in their blindness." [40] It was only a minority of papers that attempted, like the *Labor Advocate* of Columbus, to remind the citizens that it was " the peculiar and rightful vocation of capital to develop the country " and that if capital sought to tax the people to support a railroad it was " sure evidence that there [was] a doubt as to its being a remunerative enterprise." Much more common was the view of the Anderson (Ind.) *Courier* that " no city, county or township were ever injured by having too many railroads." [41]

[38] *Chicago, Milwaukee and St. Paul Railway Co.* v. *Shea, County Treasurer, et al.*, 67 Iowa (1885) 728; 45 ARJ (1872) 293 (quoting a Maine correspondent of the Boston *Journal*); *Brevier Legislative Reports*, vol. 19 (regular session, 1881), p. 113. See also A. M. Hillhouse, *Municipal Bonds: A Century of Experience* (New York, 1936), p. 149 and the footnote on p. 152 containing a list of communities which bonded themselves for railroads which were never in fact built to or through them.

[39] 40 ARJ (1867) 431; Indianapolis *Sentinel*, July 30, 1869; *ibid.*, quoting Evansville *Courier*, June 24, 1869.

[40] Indianapolis *Sentinel*, May 19, 1869; Indianapolis *Journal*, Sept. 11, 1869; Indianapolis *Sentinel*, Jan. 10, 1875.

[41] Quoted in Indianapolis *Sentinel*, Sept. 7 and Aug. 14, 1869.

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The grounds of the appeal and the degree of initiative varied with the circumstances of the community. In some cases the plea was still to the imperial designs of the great merchant city. Cincinnati's railroad enterprises, declared its Board of Trade, would pay large dividends "in those results most desirable in a commercial city—increase of trade and cheapening of transportation." [42] It was in this spirit that Baltimore and so many other seaboard cities had used municipal resources in their struggle for the trade of the interior, and President Garrett makes a further appeal to Baltimore on the same grounds in the annual report of the Baltimore and Ohio in 1869. He proposes that the city invest a million dollars in the Valley Railroad and a half million in the Lynchburg and Danville. These two Virginia roads will be extensions of the B. & O. system. "As a mere railroad matter," however, Garrett says that his company has relatively little to gain. It is the city that will reap the great advantage. "In each and every year" it will win back at least as much as its whole investment "in advantage and net profits on the business that will be thus commanded." [43]

Towns that could not dream of such commercial supremacy entered into vigorous competition for positions as terminal or junction points or for the location of the railroad's shops. "If . . . we can secure here her round houses and repair shops," said the Cairo *Bulletin*, "intervals of business prostration, like the present, will be unknown among us." Communities served by a single railroad sometimes acted on the belief that giving aid to a second was the right way to deal with monopoly and bring down rates. But the commonest motive for local aid was simply to make sure of getting *some* railroad to pass through the locality. For many a crossroads community, it was literally a matter of survival. If the railroad passed the other way, "business men removed from the place and took their wares to the new city." But if it came, a "hitherto quiet and plodding village" was likely to become "full of the bustle of business and

[42] 46 ARJ (1873) 639.

[43] 42 ARJ (1869) 457. See also 43 ARJ (1870) 553; 45 ARJ (1872) 518.

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enterprise."[44] It is not strange, therefore, that local leaders were ready either to take the initiative in forming railroad companies or to listen to the proposals of railroad promoters or contractors.

### *The Process of Bargaining*

The great compelling motive was to get railroad service for the community. To accomplish this, local leaders were willing to offer inducements to outside capitalists or to the railroad company. If a subsidy proved more appealing than a stock subscription—"does the company have to give stock . . . or is it a square donation?"[45]—it was not hard for the community to concede the point. Whether or not they received securities in exchange for their contributions often seemed a matter of indifference to the local governments. Perhaps they had learned from their own earlier experience, or that of others, that they were in most cases unlikely to receive very much direct financial return from their investments. The possibility of exercising control over the company through stock ownership seems hardly to have been a major consideration except in a few cases where the community was very large or the company unusually small.

The Hartford (Conn.) *Evening Post* proclaimed in 1869 the merits of what it called "a new mode of investing capital in the West":

> First, a company is organized . . . for the purpose of constructing a railroad. Then the cities, towns, counties and inhabitants . . . whose interests will be greatly promoted . . . agree to contribute to the company, in the form of donations, an amount sufficient to construct the road and prepare it for the rails, payable when the road is completed, either in whole or by

[44] Indianapolis *Sentinel*, Sept. 2, 1869 (quoting Cairo *Bulletin*); Dec. 21, 1872; Blanchard, *op. cit.*, pp. 204, 681, 716, 730. See also Halm, *op. cit.*, p. 159.

[45] John W. Brooks, President, Burlington and Missouri Railroad in Missouri, to James F. Joy, President, Chicago, Burlington and Quincy Railroad, Jan. 23, 1872. Joy Collection, Ann Arbor, Michigan. This and a quotation used below were furnished through the kindness of Professor Thomas C. Cochran who is engaged in a study of the executive correspondence of American railroad leaders.

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> sections, and the cars are running. This being done, Eastern capitalists subscribe for the stock and advance whatever money is required. . . .
>
> . . . . . .
>
> Thus the donors are sure to realize the benefits of the road, the capitalists make a profitable investment, and the public interests are subserved.[46]

From the side of the communities, this had at least the advantage that they were not asked to put in their contribution until the road was built or the promised facilities were installed. As against paying in advance for stock in a road that might or might not be built, many a local government—particularly in the later years of the movement—had no hesitation in choosing outright subsidy to be paid only after the company had fulfilled specific conditions.

Negotiation might begin from either side. The community might send a committee to ascertain "what the owners of the road require in the way of assistance from those living upon the line of the road." The local railroad president might go to New York and come back reporting terms "most favorable to our people" but involving "five million in county and corporate subscriptions" as well as private subscriptions in land. Or the railroad might announce the terms on which it would make the decision. Choices of route or location of facilities were likely to be based both on "merits" and "inducements". The Western Maryland decided to leave the selection of part of its route "to those in either vicinity who may subscribe most liberally." The editor of the New Albany *Ledger-Standard*, telling his fellow townsmen that they could best Louisville in a contest for location by a municipal subscription of $120,000, explained the company's position as follows:

> The company would, of course, prefer to have these machine shops and car works located at New Albany, but . . . it will be very natural, in view of the great advantages they will bring to

[46] Quoted in Indianapolis *Sentinel*, July 11, 1869. The *Sentinel* itself had made much the same argument, from the Western point of view, on June 14 of the same year.

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> the city that gets them, for the company to do the best it can. This is business-like and perfectly proper.[47]

The bargain was not always struck. Syracuse refused a municipal subscription to the Midland, and the directors decided to leave the city "widely to the left of the line." For certain prairie villages, such disagreement had more disastrous consequences, and their business was lost to new towns laid out a few miles away by the railroad itself.[48]

The reported terms are often most definite. "The builders . . . agree to make Covington a point if she will make a donation of $80,000, otherwise they will run the road in the direction of Perryville." Holden, Massachusetts, will add $14,800 to its subscription "on condition that the road will be run through the centre of the town." "Oran township, Logan County, has delivered up its bonds to the Havana road, and is to have a depot."[49] Complaints of fraud ran in terms of similar questions:

> The principal fraud alleged is, that various citizens of the county . . . represented to the citizens of Boonsboro that the depot would be located within one mile of that place, and to the inhabitants of Swede Point and other places that they would be as likely to get the depot as would Boonsboro, thus securing the votes of all the localities in favor of the contract.[50]

Issues like these, and above all the question of the completion of the road, were the immediate concern of the communities. If railroad officials wished to profit by the aid of local governments, they must therefore—as one of them reminded another—take this consideration shrewdly into account:

[47] 41 ARJ (1868) 433; 43 ARJ (1870) 562; 44 ARJ (1871) 1266; 38 ARJ (1865) 605; New Albany (Ind.) *Ledger-Standard*, Dec. 12, 1880.

[48] 40 ARJ (1867) 921, 1129. Ford, *et al.*, *History of Northeast Indiana*, vol. I, p. 298. The latter refers to "the oft-repeated story of a railroad corporation going out and platting their own townsite."

[49] Crawfordsville *Review*, quoted in Indianapolis *Sentinel*, July 8, 1869; 43 ARJ (1870) 399; Indianapolis *Journal*, Jan. 5, 1873 (in its Illinois news).

[50] *Cedar Rapids and Missouri River Rail Road Company* v. *Boone County*, 34 Iowa 45 (1871-72) at p. 53.

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> In dealing with our new road from Dubuque north pray bear in mind that much of the surplus value beyond what we are to put in is to come from local aid which requires the most judicious management to amount to much. All such sources dry up at once with the progress of the road and nothing can be realized from any locality after they are sure of the road. The aid must come first or not at all. . . .[51]

### *Local Government Planning*

From this review of the process of negotiation, two characteristics stand out clearly to define the part played by municipalities and counties in the movement for internal improvements. The first is the limited nature of most of the government planning involved. The rôle of the local government was typically not the planning of a great system of transportation. It was an attempt to gain a favorable competitive position for the particular community in a growing railroad network whose main outlines were determined by forces outside the control of the local authorities. Few towns were in a position to follow Baltimore in employing professional advice on their projects of railroad promotion or, like Cincinnati, to embark on the construction of an important road. Early railroads were often the products of local initiative in which the same groups of men were likely to be leaders both in the company and in the local government,[52] and similar local enterprise continued in the construction of small and branch lines. But the more characteristic situation during the period of most active local aid was one in which the community—often a small one—had to make its arrangements with a railroad corporation from outside. The objects were immediate and local, and appeared urgent to the people of the communities. To attain them the voters and their representatives made and accepted, wisely or unwisely, what terms they could.

The second characteristic is the mingling of individualistic and collective elements in the program. The activity of the local governments was thought of as providing favorable conditions for individual and corporate enterprise. Except in the

[51] John W. Brooks to James F. Joy, Jan. 28, 1871. See note 45 above.

[52] Heath, *op. cit.*, p. 44.

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small minority of strictly municipal enterprises, the public funds were added to those supplied from private sources. Appeals for aid were directed according to circumstances either to government authorities or to private individuals and groups or to both in combination.

The laws for distribution of public stock to individual taxpayers seemed to be based on the assumption that as far as possible a compulsory contribution should be regarded as the equivalent of a voluntary purchase. When the Mississippi Valley Railroad was conducting its campaign for local capital in 1870, public and private subscriptions were specifically treated as alternatives. The president told the stockholders that "a relinquishment of individual subscriptions" had become necessary when the County Court of Tipton County, Tennessee, had decided to make a corporate subscription. "It would", he explained, "have been a manifest injustice to lay upon citizens who had subscribed private stock an additional burden in the county levy that would have to be imposed." [53]

More often, governments and private individuals were both urged to take part in the common enterprise. Newspaper stories and even railroad accounts sometimes made little or no distinction between the two. In the case of the Louisiana and Missouri, for example, it was reported that the stock had been subscribed for "by the counties along the line (including individual and municipal subscriptions)." [54] The Hartford *Evening Post* included "inhabitants" as well as local governments in the list of those whose donations were serving to attract eastern capital. The Oregon Central in 1868 was the recipient of state, city and county aid as well as of a land grant. Nevertheless, private individuals were exhorted to play their parts. "Every man can help some." Farmers should contribute food for the workmen. Teams should be freely supplied:

> The right of way ought to be cheerfully donated in every case. Crossties can be easily furnished by persons along the line, each furnishing a few, and taking their pay in stock or lands. In this way let a "railroad spirit" be aroused and stirred to a deeper depth.[55]

[53] 43 ARJ (1870) 868. [54] 42 ARJ (1869) 874. [55] 41 ARJ (1868) 608.

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Community effort in support of railroad building, moreover, did not always cease when judicial ruling or legislation or constitutional provision put a stop to official action by the public authorities. The Supreme Court of Iowa ruled against local government aid in 1869. It appeared that this would kill the proposed North and South Railroad, for which Marshalltown had voted an appropriation. But the people of the town were promised that the work would go on if they would raise $32,000 by private subscription. Accordingly, as the Chicago *Tribune* reported: "Schools were closed, business suspended, and everybody went to talking railroad; the band was out on the streets, and, after a sharp canvass, it was found that $35,000 had been subscribed, and the road is now assured." [56] Citizens' committees, boards of trade and chambers of commerce sometimes took over the function of raising funds for the purposes for which public appropriations had previously been made,[57] and companies continued to ask for what they still called "local aid" and to secure it by playing upon the rivalry of competing towns.[58] In cases like these the long-continued practice of local aid through government means merged into a continuing practice of assistance through other forms of collective and civic effort.

Throughout the movement for internal improvements the grounds on which government action was urged remained much the same. For nation or state or locality alike, the arguments ran in the familiar terms of diffused advantages to the community as a whole—in income and employment opportunities for the people and in the increase of taxable wealth—that could not be precisely related to the interests of particular individuals or secured by private action alone. The intermixture of com-

[56] Quoted in 42 ARJ (1869) 646.

[57] For example, Philadelphia Board of Trade, 39 ARJ (1866) 589. They had occasionally done so even in cases in which government aid was still permitted. For example, Detroit Board of Trade, 42 ARJ (1869) 254.

[58] One of the most circumstantial and detailed stories of such rivalry comes from Ohio long after municipal aid had been forbidden. A committee of citizens went to Cleveland to consult the officials of the railroad and came back convinced that their town could win the railroad location against its rival if it would "whack up" $25,000. It did and became an important railroad point. Taylor Hampton, *The Nickel Plate Road* (Cleveland, 1947), pp. 52-63.

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mon and individual interests, and of governmental and private means, which was characteristic of the movement as a whole, was particularly marked in the case of local aid. So also was the pragmatic manner in which governmental measures were employed or discarded, as the needs of the situation seemed to demand.[59] Local aid activity—though reaching its peak in an era usually thought of as particularly hostile to government intervention—was carried on with little apparent regard to general theories of demarcation between the spheres of government and business enterprise.

The scope of public planning, however, varied markedly with the size and jurisdiction of the governmental unit and with the growth of corporate enterprise. Though certain cities projected surprisingly far-flung schemes of improvement, the smaller communities were manifestly in no position to make plans as comprehensive as those that could be made by the federal government or by the larger states. When Gallatin prepared for Congress in 1808 a plan of internal improvements conceived in terms of the economy as a whole, or when the state of New York completed the Erie Canal in 1825, there were no large private corporations in transportation. But when prairie towns and counties voted on proposed railroad appropriations in 1870, the question was one of aid to an existing company which had already determined the main outlines of its route. In terms of government planning, it was a far cry from the Gallatin Report to the township donation.

An Indiana judge in 1854, in an opinion sustaining a local appropriation for railroad aid, found in the movement an illustration of his dictum that in the United States "the political tendencies are centrifugal."[60] It was indeed characteristic of nineteenth-century America that the smaller governmental units—whatever their competence for planning—took on themselves so large a part of the responsibility and burden of government aid to railroad construction.

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[59] Goodrich, "Revulsion", esp. sec. 4, and "Public Spirit". See also *Public Aids to Transportation*, vol. II, p. 3.

[60] *The City of Lafayette* v. *Cox*, 5 Ind. 38.

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## CONTRIBUTORS TO THE SEPTEMBER ISSUE

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# REVIEWS

*The Road to Pearl Harbor: The Coming of the War Between the United States and Japan.* By HERBERT FEIS. Princeton, Princeton University Press, 1950.—xii, 356 pp. $5.00.

The primary task of the historian is " to establish the facts ", and Herbert Feis has admirably performed this task for the complicated and wearisome story of Japanese-American relations, 1939-1941. It is most doubtful that any significant information will be added to the record in the future. The evidence is in, and fortunately Mr. Feis lets the facts speak for themselves, indicating carefully whenever he mentions an opinion of his own. This is a most refreshing change after the bitter partisan debate between Republicans and Democrats, supported respectively by the late Charles A. Beard and George Morgenstern and by Basil Rauch and Walter Millis.

There are no startling revelations in *The Road to Pearl Harbor*, but the often-told tale is unraveled with Mr. Feis's usual skill in analysis and writing. The key to the ensuing tragedy was Japan's wish to be arbiter of Asia and the Western Pacific, though the sum of her needs and ambitions was beyond her scanty means. " The wish throve in poverty and pride, finding company in thoughts which made it seem just." The United States, on principle as well as for national interest, refused to give its blessings to the Greater East Asia Co-Prosperity Sphere and by economic pressures tried to make the Japanese see the error of their ways. Without a basic change in policy by either one of the contestants, the question was not whether war would start, but when. All the negotiations were merely efforts to postpone the inevitable. With time on the side of the United States—" the oil gauge and the clock stood side by side "—it was Japan which settled the date and determined the place.

Mr. Feis succeeds in giving reality and suspense to the long and involved maneuvering which took place against this background. The major dramatis personae have flesh and blood: Hull, given to sifting a difference into its smallest particles and to enduring a strained situation long; Grew, with his buoyant belief that any situation could be straightened out if the try was hard enough and finding it difficult to admit that this one could not be; Konoye, the man with the wavering spirit, who lacked commanding purpose and energy;



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Matsuoka, with a mind like a twisted rope and unbounded faith in his powers of deception. When negotiations with Nomura in the old State Department building, that "gray stone house of care and caution," came to a standstill, they were shifted to Hull's hotel apartment. "There, in the air, which like all hotel air, seems to belong to no one, they exchanged avowals of their countries' policies. And there, among furniture which, like all hotel furniture, is neutral, they sought formulas which would make them friends. The talk was always quiet but it was never free." It could hardly have been anything else, for by the summer of 1941 the screen of Japanese diplomacy was down. "Through the lenses of 'Magic' the American government watched what was going on behind it. Only the pure of heart and honest of mind could qualify well under such exposure. The government of Japan did not." "In short, there was no faith—and, as has been said, without faith there can be no works."

The question of how we arrived at the final impasse has now been authoritatively answered. Those who argue that a Konoye-Roosevelt meeting in September 1941 or changes in the wording of the Japanese note of November 20 or of the American reply of the 26th would have prevented war will find little comfort in Mr. Feis's book. Throughout the Pearl Harbor debates, such incidents only beclouded the real issues between the debaters, who actually were divided on their estimates of the rôle of the United States in world affairs, the effect of war on a democracy, and the character of Franklin D. Roosevelt. If you believe that a German and Japanese victory would not have endangered our security and democracy, that wars inevitably undermine freedom, and that "that man in the White House" was out to subvert the fundamental principles of the Constitution, then the course which we pursued will continue to appear wrong and a Pacific Munich was indicated, permitting Japan to emerge rewarded and strong from its ten-year adventure in arms and stratagem. If you do not share these beliefs, then it was up to Japan to set limits to the gains of past efforts and give up the prospect of future expansion, then contradictory campaign promises appear irrelevant and an oil embargo becomes a long overdue reprisal. These basic problems Mr. Feis cannot, nor does he pretend to, settle for the reader.

A major contribution of Mr. Feis is that those who want to continue the debate will not have to hunt for evidence to support their arguments through the forty-odd volumes of the Joint Congressional Committee on Pearl Harbor or the even more extensive records of the International Military Tribunal for the Far East. Moreover, Mr.

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Feis has had full access to State Department archives, including captured German documents, consulted the still unpublished papers of Stimson, Morgenthau and Grew, and interviewed many of the participants. With this exhaustive research, the diplomatic historian has done his job. What remains to be done is an equally good analysis of the forces in the United States and Japan which limited the freedom of the negotiators and ruled out any viable alternative. What basic forces did the Japanese Army represent or misrepresent? What influence did "isolationist" and "interventionist" groups both in and out of Congress exert? To what extent was the policy in both countries conditioned by the existing administrative procedures? Maybe such a study will furnish at least a partial answer to the most pressing post-war problem of how to carry on in our democracy and during the atomic age an effective foreign policy which will enjoy the support of the public while retaining the flexibility essential to all diplomatic negotiations. In this connection, Mr. Feis's remark, that "one remains master of an intention as long as it is not disclosed," might be pertinent.

WASHINGTON, D. C. R. A. WINNACKER

*The New Soviet Empire.* By DAVID J. DALLIN. New Haven, Yale University Press, 1951.—viii, 216 pp. $3.75.

David Dallin has added a discursive narrative of Soviet conditions and intentions to his growing list of books on the subject of Soviet politics. He finds clearly indicated a Soviet desire to expand and concerns himself primarily with checking it. The Achilles heel of Soviet leadership seems to him to be prestige. He believes that Stalin and the Politburo must preserve the myth of invincibility to survive. The task of the foreign diplomat is, therefore, how to prick the balloon of prestige and open the way to disintegration of Soviet society. Dallin has no doubt that such disintegration awaits only loss of the leader's prestige, for he finds convincing evidence of corruption among the Soviet élite.

To support his argument that prestige is vital to the preservation of power Dallin cites Russian history. He notes that loss of prestige by defeat in war has resulted in upheaval and reform. War would obviously be one way of pricking the balloon, if it could be successful. But Dallin finds it necessary to discard any proposal of all-out war, for he thinks it could not end in total victory. Other means to prick the balloon must be found. Dallin does not suggest what they might

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be, but says only that every opportunity to reduce Soviet prestige in the international scene (presumably short of starting an all-out war) must be utilized.

Those schools of thought which teach that Russians have the kind of government they deserve are castigated. Scorn is heaped on Ruth Benedict, Margaret Mead and Geoffrey Gorer and their approach to the Russians. Dallin believes the Russians to be as liberty-loving as any people, and that they have been dragooned into a system which they abhor but fear to such an extent that they dare not revolt unless the leadership's prestige is shaken. Even the rebellion is to be anticipated not from the people but only within the ranks of the Communist party itself. The experience with General Vlasov during the war is cited. He and his army of Soviet deserters remained Communist to the embarrassment of Hitler. Their quarrel was not with communism but with Stalin's brand. This being his finding, Dallin urges the West to court the disaffected elements within the Soviet élite after pricking the balloon of Stalin's prestige.

A haunting fear is expressed. It is that with a demoralized Russia Germany will be reborn as a militant expansive power. Dallin is even prepared to deny to the Ukrainian separatists their cherished dream because a dismembered Russia would permit Germany to rise and rule again. He would permit restoration of independence to the Baltic states, but no more. The task of the West is, therefore, the reduction of Stalin and his Politburo, but the preservation of a new Russia sufficiently strong to check Germany.

Dallin's program will be disappointing to the preventive war school, and to those who believe that Russia can be remade in the image of a capitalist democracy after the elimination of Stalin. It will be discouraging to those who think that peace waits upon only the elimination of the Stalinists, for Germany is pictured as waiting to rise again and begin the 1939 struggle over again. Dallin does a service in pointing up the continuing worrisome unpleasantness now faced by the leaders of the Western World who try to plan for the long-range future.

Specialists on Soviet domestic politics will be particularly interested in the chapters portraying Russia as ripe for disintegration, if only the balloon of prestige is pricked. To document these chapters Dallin used reports of those who have escaped the Soviet Union. The result is a chatty Westbrook Pegler type of account of social evils. Evaluation of such accounts is difficult. Corruption does not always presage disintegration. New Yorkers have been horrified by the Kefauver and narcotics investigations and have been told that society has 'dis-

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integrated, but none would really believe that New York was ripe for rebellion. Dallin would say, perhaps, that it is a matter of degree, for he finds that "the rot at the heart of the Communist system begins one inch below the surface."

Issue may also be taken with Dallin's belief that the Communist party is due for wide expansion. Without question the party has grown since the war, but statistics of party participation in government do not indicate that all who serve the state are party members or that Lenin's admonition that the party be a hard core of professionals is being discarded.

The ideas in this book bear careful attention by those whose business it is to plot the future. Readers must be cautioned, however, that there may still be a hard core of order capable of preserving the leadership in the face of great international tension. Reduction of prestige as advocated by Dallin may bear no fruit for a long time.

JOHN N. HAZARD

COLUMBIA UNIVERSITY

*Russia's Soviet Economy.* By HARRY SCHWARTZ. New York, Prentice-Hall, 1950.—xxvi, 592 pp. $6.65.

The author of this eminently readable volume, professor of economics at Syracuse University on leave with the *New York Times*, has written what aims to be a textbook for a course in Soviet economics. Yet the wealth of material contained in his book makes it stand far above the run-of-the-mill college compendium, not the least because of its thorough documentation, including articles in periodicals Russian as well as English. A member of the working press, Professor Schwartz has kept in up-to-the-minute touch with Soviet economic developments. Illustrative of his eager coverage is the appendix on the fulfillment of the Fourth Five Year Plan, based on Marshal Bulganin's speech on the anniversary of the Revolution last November. Only the recently uncovered annual plan for 1941 could not be considered because it did not become available soon enough.

The book's first three chapters present the resource, historical and ideological background. Then follow four chapters on general economic and production problems; six on all branches of the economy (including forced labor); and one chapter devoted to foreign economic relations. In his last chapter Schwartz realistically considers the prospects of the Russian economy; and bleak they are, without a doubt.

In his treatment of Soviet economic development he gives a quick survey of the leading features of the Soviet economy, from the

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Bolshevik revolution to the end of the Fourth Five Year Plan in 1950, describing the spread of state control and outlining the Soviet planning system. On the deficiencies of Russian statistics, a perennial source of frustration to all students of the Soviet economy, Schwartz has a full summary of the present state of the debate, to which he himself has been a frequent contributor. He agrees with most other Western observers that Soviet statistics are not purposely falsified: the rapid development of the Soviet economy after 1926-27—the year the prices of which are taken as constant weights in measuring production—is the basic technical factor exaggerating the growth of physical volume of production. After 1930, the U.S.S.R. was producing many products never before made in the country as well as improved versions of goods already made in 1926-27. These new goods, valued at later prices, received a much higher weight in the measuring of industrial production than if 1926-27 prices had been used. Thus an upward bias is imparted to the official index. An additional tendency toward exaggeration exists in the case of consumer goods because of inadequate measurement of small-scale private production in the late 1920's. Thus the increase in consumer goods' production in official statistics for the 1930's reflected mainly the growth of output of large state enterprises, while neglecting to take account of the counterbalancing decline in consumer goods' production caused by the extinction of small producers.

Then comes a detailed discussion of the National Economic Plan, how it is drawn up and how the "method of balances" helps to determine the quantitative relations between different branches of the economy. Schwartz goes on to deal with the organization and operation of Soviet industry, control mechanisms, setting of wholesale prices and the attending difficulties (such as the great variations in costs among different plants). He points out that the power of fixing prices is one of the most important weapons in the hands of Soviet planners: by reducing planned costs they can force directors of plants to lower actual costs and increase profits; and they are known to have lowered wholesale prices in order to stimulate the growth of various parts of the economy, such as the machinery industry in the early 1930's.

In the chapter on labor, Schwartz's statement in the course of the discussion of "over-full" employment in the Soviet Union that (over the past twenty years) "many workers would have preferred not to work at all or to work only part-time and would have willingly accepted the corresponding income reductions if they had been permitted to do so" leads one to wonder how these persons would have

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secured a livelihood otherwise. But his estimate of Soviet annual money earnings, formerly considered somewhat high, now appears to agree with results obtained by other specialists who like him seem undeterred by the Soviet's omission thus far of announcing that the 1950 goal of 500 rubles average earnings per month has been reached.

Schwartz also gives a good general description of the process of setting retail prices for individual commodities. Unfortunately, he does not add much to our knowledge of the mechanism employed in this process. "There is", he writes, "a recognition [on the part of Soviet authorities] that consumers' demands for different commodities depend upon the changing level of income, the distribution of income, and relative prices. Taking these factors into account... [the authorities] apparently attempt to set a price for a particular commodity at which the demand will be equal to the anticipated supply.... Apparently Soviet authorities rely upon past experience and also upon study of data regarding budgets and expenditure patterns of different groups in the Soviet population." All this is somewhat vague; and one is inclined to regret, in spite of all the merits of the book, that Schwartz's varied activities have left him relatively little time for more penetrating analysis.

OTTO R. REISCHER

WASHINGTON, D. C.

*The Soviet Image of the United States: A Study in Distortion.* By FREDERICK C. BARGHOORN. New York, Harcourt, Brace and Company, 1950.—xviii, 297 pp. $4.00.

In a time when the whole Soviet press, including the most scholarly reviews, do not stop short of attacking the politics, institutions, laws, ideas and the entire culture of the United States, we stand in need of thorough political enlightenment about Soviet ideology, as the principal cold weapon of Moscow. The author uses to this effect not only books, articles, official sources and statements, but also private conversations with citizens and soldiers held in Russia during his diplomatic stay there (1942-1947) and, after 1947, meetings with DP's and refugees here.

The subject of the volume asks from the researcher more than a perfect command of Russian; he must also know the cultural, economic and political background of the country. In view of the fact that the thirty-four years of the Soviet régime do not represent a homogeneous state-order with a fixed framework, investigation becomes even harder. Hegel's dialectics played a cruel trick with its

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worshippers. A régime, initiated by Lenin from a global and cosmopolitan angle with an acute awareness of Russian backwardness, " dialectically " turned under the aging Stalin into a disgusting nationalistic self-adoration of its own grandeur, into a régime the worst invective of which is now " homeless cosmopolitan ".

Mr. Barghoorn follows very well the evolution of the image of America in Soviet ideology. Hence, he mentions a few milestones on this rather winding road: (1) Stalin's statement in 1929, " when a revolutionary crisis has developed in America, that will be the beginning of the end of all world capitalism "; (2) Stalin's reaction in 1934 to the New Deal, as a hopeless attempt to cure the evils of capitalist society within a capitalist institutional framework. It should have been shown that long before 1917 the United States was a thorn in the eyes of orthodox Marxism, which prophesied already in the 1870's that America, according to its highest " integration of capital " (monopolies) and its technological productive standards, should be the first, or one of the first, to turn socialistic. Instead, what happened was that in November 1917, by plain exertion of will, the most backward capitalist country of Europe jumped into an institutional socialism *de jure* without any *de facto* economic basis for such a shift. Thus we see how the third (3) milestone, the belated necessity " to overtake and surpass " bourgeois but advanced America, becomes the *idée fixe* of Soviet Russia.

American and other Western engineers were the ones who transferred the " post-socialist " industrialization of Russia, daringly designed in her Five Year Plans, from blueprints into facts. And, as if all this help of capitalist America to anti-capitalist U.S.S.R. were not enough, destiny made America together with Great Britain allies of Russia in a crucial common war against Hitler's Germany. Even with much more benevolence than the Soviets have grudgingly shown in the middle of this war, it would have been a very difficult task for any Communist Power to save its face before the population and to adjust the existing oppressive régime. These are approximately the real causes of the diabolic Soviet distortion. The author shows convincingly what an ideological havoc this common anti-German war has produced in the psychology of the long indoctrinated Soviet subjects, many of whom came into direct contact with the life and culture of America and caught some lasting impressions of her. Soviet acquaintances of the author were still convinced that Russia could not have won the war without American aid.

Professor Barghoorn properly differentiates—very decidedly—between the Kremlin on the one hand and the vast population on the

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other, when in chapter xi he deals with " The Russian People: Kremlin's Achilles' Heel ". In this chapter the elemental growth of sympathies toward America is sufficiently shown, but one important feature should not have been omitted. The American legend has had its roots in Russia proper predominantly among the higher strata of the freedom-loving aristocracy and intelligentsia, but not in the lower strata of the peasantry or workers. The Great Russian peasantry of the inner parts of the country did not emigrate to America; it shifted in critical times to Siberia and the rest of the empty East of the Empire. The peasantry and artisans of the western parts of Russia, namely Lithuania, Russian Poland, White Russia and the Ukraine, were attracted to America roughly half a century before the sovietization of Russia began. Some Ukrainians supported their relatives from their new homes on the American shores, some even returned home with American money to improve their poor homesteads in the old country. This helps to explain the " extremely pro-American attitude in the Ukraine " noticed by the author. Thus, while the American legend was deeply rooted in pre-Soviet western Russia, paradoxically enough, under the Soviets pro-Americanism spread into inner Russia and its East.

The author presents a fine piece of research in analyzing the much-discussed views of the economist Eugene Varga and his conclusions concerning the future of Western capitalism. He shows how planning, social legislation and the New Deal on the American domestic scene superimposed themselves upon the Leninist-Stalinist economic doctrine, according to which the United States " must " have undergone a mortal crisis after the war.

Mr. Barghoorn gives a just description of the conflict between the alleged possibility of Soviet-American peaceful coexistence and collaboration, only for foreign consumption, and the inevitability of the " last battle " against the doomed West, led by America, issued for domestic and satellite propaganda.

The author is against the idea of a preventive war, but he finds that " failure to resist Soviet pressure leads inevitably to political subjugation and moral extinction." He hails the measures taken by us since 1947 which prevented the hegemony of the Kremlin over three continents, but he also warns us not to remain one-sidedly negative. He insists upon " dynamic democracy " and upon establishment of direct friendly contacts with the Soviet peoples over the heads of their leaders—an idea applied in early July 1951 by the Congress and President Truman.

The reviewer could find but one minor error in the entire book, though it is packed with data, events, statements and other material

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demanding meticulous treatment. The only slip he discovered is the marking of the year 1922 as the year of the *first* Soviet constitution, while the correct year of its promulgation is 1918, with 1924 as the year of the second Soviet constitution.

The book is a valuable addition to the literature on American-Soviet relations.

MAX M. LASERSON

COLUMBIA UNIVERSITY

*Modern France: Problems of the Third and Fourth Republics.* Edited by EDWARD MEAD EARLE. Princeton, Princeton University Press, 1951.—xiv, 522 pp. $6.00.

This handsome volume results from an enquiry conducted at the Institute for Advanced Study in February 1950 by twenty-seven young American scholars and one veteran Frenchman. "Even the most ardent Francophil", says Professor Earle in his foreword, "would hardly contend that the France of 1950 faces the world with the same confidence . . . as the France of 1914. How has this condition of affairs come to pass? And what are the prospects for the Fourth French Republic? These are the principal questions which this book asks and attempts to answer." The answers may vary or overlap and are inevitably various in style and quality, but in general the book bears ample and eloquent witness to the liveliness and excellence of modern French studies in the United States.

Its scheme is analytical rather than historical. By itself as an introductory chapter stands M. Siegfried's "Approaches to an Understanding of Modern France". It is written with his accustomed fluency, but his "keys to French character and behaviour" are virtually the same as those he used in his *France: A Study in Nationality* in 1920. Thereafter the chapters are grouped under the following headings: The Decline of the French Elan Vital; French Letters and Science; French Politics: The Shifting Coalition of the Center; French Politics: The Left and Right; Social and Economic Problems in Present-Day France; Problems of French Security; and France in World Affairs. In the first section John B. Wolf attempts a discussion of the decline of France's *élan vital* in its historical perspective, John Bowditch suggests that the concept of *élan vital*, common alike to French syndicalists and military men before the 1914 war, was itself used as a form of escapism, and John B. Christopher gives a lucid analysis of "the desiccation of the bourgeois spirit". The second section contains a discursive, but none the less interesting, essay

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on the intellectuals of today by Kenneth Douglas and a useful and on the whole encouraging account of scientific developments by Henry E. Guerlac. Outstanding among the ten chapters on French politics are those by E. W. Fox and Charles A. Micaud on the Third Force, Robert F. Byrnes's brief history of the Christian Democrats, Henry W. Ehrmann's inquiry into the decline of the Socialist party, and Gordon Wright's study of the Communists and the peasantry. By comparison the devotion of a whole chapter to Georges Sorel by Scott H. Lytle seems out of focus, especially since he is the only individual accorded such treatment. The section on social and economic problems begins with a discussion of strains in the social structure which does little more than translate what appears elsewhere into the more cumbrous jargon of the sociologist; but usefully documented chapters follow, on population trends by Dudley Kirk, on the French experiment in nationalization by David H. Pinkney, on France's investment program by Richard Ruggles, and on the Marshall Plan and foreign trade by Warren C. Baum, while David S. Landes's penetrating study of the French business man is one of the most interesting in the whole volume. In the section on problems of French security Richard D. Challener convincingly argues that the French theory of war between the wars was the major cause of the defeat of 1940, while Donald J. Harvey and Edward L. Katzenbach, Jr., respectively discuss contemporary concepts of French strategy and the relations between the army and political parties since the Liberation. Finally, three authors in the last section examine the French Empire, France's reliability in the European system, and her position among the Powers.

The book confirms current impressions that France's dilemma has two main aspects. In form she is a democracy, the foremost democracy on the European mainland, but the champions of liberty have constantly to contend with the devotees of authoritarian and equalitarian traditions which are the heritage of a long history. The result is that their hold on power is precarious—how precarious the general elections of June 1951 have once again shown—and Mr. Micaud can go so far as to speak of "the absence of a psychological foundation for successful democracy in France." Secondly she is a society with her own well-established traditions of economic and social conduct, long used to a balanced economy, and reluctant to jettison those traditions in order to satisfy external notions of efficiency and what is demanded by power politics. The position is put brutally by Mr. Wolf when he says: "The world that was making bigger and better guns, bigger and better atom bombs, even bigger and better hogs and cows, had small favor for a society that emphasized uniqueness, ar-

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tistry, and personal skill. These are values that pay dividends in personal satisfaction, but they count little in the play of power in the modern world." But they are social as well as individual values and prized intensely as a precious part of the European heritage not only in France, but elsewhere in the free world. So *le cas français* has a wider significance and the question is not only whether *la doulce France,* as Mr. Landes puts it, is incompatible with a new iron age, but whether some of the essential values of Western civilization with which that France is associated must disappear. For France, however, all may depend on the rate of change. That there have been notable changes since the war many chapters make clear, although they have seldom been as far-reaching as authors preoccupied with the problem of power would have liked. We might well hope that, given time, France will succeed in investing what new forces she needs to harness with something of the dignity of her traditional way of life. But time, as Mr. Landes thinks, is " the most strictly rationed commodity to-day." And so, alas!, he and other authors in this book conclude that France's present dilemma is urgent and critical.

J. P. T. BURY

CORPUS CHRISTI COLLEGE
CAMBRIDGE, ENGLAND

*War and the Minds of Men.* By FREDERICK S. DUNN. New York, Harper and Brothers, for the Council on Foreign Relations, 1950.—xvi, 115 pp. $2.00.

The central theme of this stimulating essay by Professor Dunn is the dilemma of UNESCO. If " wars begin in the minds of men," how, in action terms, can UNESCO aid in influencing their behavior so as to improve the outlook for peace with freedom in our sharply divided world?

In exploring this baffling problem, the author starts from the assumption that the course of international politics during the second half of this century may be determined as much by the changing relations of peoples with peoples as by top-level inter-state decisions. It has become technologically possible for the world's peoples to communicate directly with each other. The key question, however, is: " Who communicates what, to whom, through what channels, and for what effects? " (p. 30).

To this question Professor Dunn attempts to relate some of the recent findings of the science of human relations, that is, cultural anthropology, social psychology, public opinion analysis, and so on. His skillful survey of these findings leads him to a number of inter-

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esting conclusions: (1) Raising the level and increasing the quantity of international information might help to modify men's consciously held opinions, but there is little scientific evidence that it would change appreciably their basic predispositions, molded as they are believed to be by the interplay of personality structure and culture. (2) The new media—film, radio, television—have far greater limitations as techniques of mass persuasion than their devotees commonly assume, if only because they tend to reach principally those people who are already converted. Diversity of language, of value systems, and of group loyalties makes it extraordinarily difficult to devise propaganda programs which will impinge upon the life experiences of the intended audiences. In this respect the trial-and-error procedures thus far employed by UNESCO are of doubtful value—like so many "buck-shot charges" missing their target. Accordingly, (3) UNESCO would do well to devote increasing attention to the cultivation of "primary contacts" between leadership groups across national boundaries; for it is by these opinion elites—in government, in education and journalism, in labor and industry, in civic organizations —that the decisions of the official policy-makers are ultimately shaped.

In this context, UNESCO must recognize the hard fact that its immediate task should be to strengthen the will to freedom and to the defense of democratic values among the peoples of the non-Soviet world, since men's minds can be altered only in an environment where free choices are possible. "If democracy loses in this struggle, there will be no place at all for UNESCO" (p. 105). In essence, this has been UNESCO's dilemma, provoking much soul-searching in an organization originally conceived as a global instrument for the reconciliation of conflicting ideologies. Since the impact of the Korean war, however, Professor Dunn detects some indication that the dilemma may be resolved, albeit painfully and very gradually.

With most of his pungent criticism of UNESCO'S confusion of purpose and disperson of effort few informed persons will disagree. At the same time, in this reviewer's opinion, fuller recognition might fairly have been given to the inherent limitations of an *intergovernmental* agency, obliged to operate on a niggardly budget, for the manipulation of education, science and technology in the quest for peace and security. Nor can one accept without considerable reservation the thesis that social science is now in a position to provide reliable criteria for determining the content and pitch of international psychological "peace-fare" (reviewer's coinage!). Many of the data of the human relationists are derived from studies of

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*American* group phenomena and still lack validation for cross-culture purposes. Does it necessarily follow, for example, that low-income groups in other cultures, with left-of-center views on domestic issues, will, as in the United States, be found to hold isolationist and nationalist attitudes on foreign policy? It is also in order to note that one of the major obstacles to support in UNESCO circles for the employment of social science methods in its program has been a woeful lack of appreciation in non-Anglo-Saxon countries of what wider empirical inquiry into human behavior might contribute to interculture solidarity.

These observations, however, are not meant to detract from the value of Professor Dunn's pioneer analysis. With shrewd insight, it reveals the complexity of the task that lies ahead of UNESCO not only, but of the social sciences as well. The Council on Foreign Relations is to be commended for having provided the discussional milieu in which many of the author's ideas, by his own admission, were developed.

WALTER R. SHARP

YALE UNIVERSITY

*The Economics of Collective Action.* By JOHN R. COMMONS. New York, The Macmillan Company, 1950—xii, 414 pp. $5.00.

In this volume, published posthumously, John R. Commons summarized the ideas which he developed during sixty years of observation and active participation in American economic life. Professor Kenneth H. Parsons collaborated with the author in the organization of the present volume and was responsible for its final editing. The book also contains an introduction and supplemental essay by the editor and a biographical essay by Professor Selig Perlman, which originally appeared in the *American Economic Review*. An apparently complete bibliography of Commons' voluminous publications is also appended.

*The Economics of Collective Action* is divided into four parts. It opens with Commons' well-known description of institutions. An institution is defined as "collective action in control, liberation, and expansion of individual action." A discussion of the unit of economic activity follows. Unlike classical economists who limited their presentation of this area to exchange, Commons stressed two other types of transactions: rationing transactions, which consist of "laying down working rules" by various types of institutions, governmental or private, and managerial transactions between superiors and subordinates.

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In the second part Commons presented five general principles which he considered primary in interpreting modern economic activity. These principles or tools of analysis are: sovereignty, scarcity, efficiency, futurity and custom. In the rational world of Adam Smith abundance is assumed to be the natural state of man. Commons, however, recognized a multitude of conflicts which dominate our economic life. These conflicts are the product of scarcity of opportunity. In the presence of conflict in society, control by collective action over individual action is imposed by the sovereign. Such control is necessary for the mutual benefit of the conflicting groups in order to avoid anarchy. Efficiency, the increase in production and productivity, counteracts scarcity. The economist must also concern himself with futurity, which applies mainly to the credit system and to contracts. Finally, custom cannot be ignored in any realistic investigation of economic activity.

Problems of methodology form the central point of the next section. Commons considered "the life-and-death struggle of making a living . . . at the bottom of all other problems." Consequently, he found the separation of the social sciences into isolated disciplines a hinderance for economic investigation. He argued, therefore, against the imposition of these artificial barriers.

The final part of the volume is devoted to the examination of various approaches used in "solving" critical problems in agriculture, credit and labor-management relations. The author considered labor-management relations paramount in the future development of American democracy. His views on this subject are particularly applicable to the current situation: "The preservation of the American economic system against a totalitarian world, and against its own internal disruption, consists mainly in the collective bargaining between organized capital and organized labor, as against the government by traditional political parties" (p. 262).

There is little in this volume that would not be found in Commons' earlier writings, particularly in the voluminous *Legal Foundations of Capitalism* and *Institutional Economics*. But in the book under review the author's ideas are presented more compactly and clearly. Thus, according to the editor "this last book is . . . logically the first book in understanding Commons' thought." With the publication of this volume Professor Parsons has made Commons more accessible to a wider audience.

SAR A. LEVITAN

CHAMPLAIN COLLEGE
STATE UNIVERSITY OF NEW YORK

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*Chief of Staff: Prewar Plans and Preparations.* By MARK SKINNER WATSON. Washington, Historical Division, Department of the Army, 1950 (for sale by the Superintendent of Documents). —xx, 551 pp. $3.75.

With this volume, the sixth in the series of the United States Army in World War II, the official history of the Army moves into a new phase. The volumes thus far published have dealt with the training and organization of ground combat troops and with three overseas campaigns. This book by a distinguished correspondent of the *Baltimore Sun* moves into the realm of top direction of American defense strategy.

Apart from three general introductory chapters, the narrative here begins with the Munich crisis of 1938 and ends with the Japanese attack on Pearl Harbor. From a historical point of view it is an exciting story, even if most of the broad developments still remain fairly well fixed in our minds. The author has given us a careful, concise and authoritative account of foreign policy and military developments in our government preceding our own involvement in World War II.

There is little in the volume which might be identified as " startling disclosures ". It is clearly documented here that neither our military nor our navy chiefs were too enthusiastic about transferring supplies to the British in 1940 and 1941. Only President Roosevelt's continued insistence resulted in some trickle of material aid in these years. The reluctance of General Marshall to see a starved army give up a part of its meager ration is understandable enough; his acquiescence in the policy is a reassuring indication of military subordination to civilian political leadership and eloquent testimony about Marshall's own qualities as a man. It is interesting to learn that General Marshall and his staff and Admiral Stark of the Navy were convinced in 1940 that as a matter of military strategy our primary interest was to defeat the Axis in Europe and only secondly to accomplish its defeat in the Pacific.

Certainly the account reveals only too clearly how wide is the gulf between military potential—a nation's raw-material, industrial, and manpower resources—and defense preparedness. One can only hope that since this country has completely reversed its former policy on military preparedness the gulf has been effectively narrowed.

Perhaps the element of synthesis which derives from its point of view is the chief interest and usefulness of the volume. Here is presented the whole galaxy of problems which a top administrator in

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the War Department faced in a critical period of American history: problems of foreign relations, legislative relations, strategic planning, troop training, officer selection, the desire of the airmen for separate status, the calculation of future procurement needs in the event of war with the Axis, staff consultation with the British, the tentative and, as time was to prove, inadequate steps to strengthen our guard in the Pacific. All these problems received a new imperative on December 7, 1941; for while the issues remained, now urgency, clarity of purpose, and popular unanimity of support were added. These made a difference.

It is a good antidote to the despair of the moment to review the tribulations of an earlier period. May the events to follow be equally triumphant.

JOHN D. MILLETT

COLUMBIA UNIVERSITY

*Freedom, Power, and Democratic Planning.* By KARL MANNHEIM. New York, Oxford University Press, 1950.—xxiv, 384 pp. $5.00.

Karl Mannheim, who died in 1947 in London, left behind a large number of unpublished manuscripts. Several of his friends and former students have collaborated in the task of making these manuscripts available to the public. This book is the first of a series of projected posthumous volumes, and is one of the most incisive critiques of modern social organization to have appeared in the past decade.

Mannheim argues that the old capitalist economy of small associations has evolved into a monopolistic capitalism which cannot resolve its own contradictions; unregulated capitalism is in the process of being replaced by a new Great Society, but, because the existing social structure has been weakened and not destroyed, the result is social disintegration rather than social change. The movement toward a planned society becomes, for Mannheim, of crucial importance, for only in a planned society can the dignity of the individual be saved from the corruption of relentless capitalism. Totalitarian planning (both Fascist and Communist) recognizes the necessity for planning in the social, economic and moral spheres, but the planning is carried out through a dictatorship which perverts the attempt. Mannheim therefore calls for a society planned yet democratic, " a society strictly organized in some of its basic spheres yet providing all the more freedom where freedom is essential. We propose to plan for freedom . . ." (p. xvii).

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Mannheim's contribution to the theory of democracy deserves special attention. One of democracy's greatest problems at the present time, he declared, is to establish a sharing of power in the great community. Shared control is essential not only in voting but in all functions and all sections of the community (pp. 16-17). "Democracy, rightly understood, implies a theory of power aimed at defining ways of distributing and controlling communal power for maximum security, efficiency, and freedom" (p. 45). Democracy also implies a psychology, argues Mannheim. Democratic behavior signifies a person's readiness to coöperate with his equals—to recognize one's neighbors' personality as an end, not a means. Democracy means "integrative behavior", toleration of disagreement, creative and constructive coöperation. The democratic spirit, he assures us, is inculcated by training for "spontaneity" and removal of "inhibitions to intelligence".

The concept of integrative behavior can be considered Mannheim's major contribution to democratic theory, but it is evident that great difficulties inhere in it. He consistently uses terms which are impossible to define readily, or which simply refine rather than resolve the issue. What is "freedom" or "spontaneity" or an "inhibition to intelligence"? Is a man free spontaneously to practice monogamy, or to manifest his intelligence by running a factory and by exploiting those who work in it? Clearly a definition of these crucial terms is not easy to achieve. In identifying democracy with shared control, Mannheim apparently makes socialism alone compatible with democracy. Yet, if public opinion supports a capitalist economy, and if the state is actually responsible to this public opinion, surely capitalism can also be considered democratic. If democracy is to mean a responsible relationship between government and society, then democrats must expect to see many cherished hopes defeated without losing faith in the democratic process. But Mannheim seems to believe that democracy exists only when all of his beliefs are public policy. For example, he holds that election campaigns in a planned democracy can be fought out solely on the basis of alternative economic plans, but never on the issue of planning itself. He even suggests the value of a "non-partisan body of highly esteemed and disinterested men" who can guarantee consistency and continuity in planning (p. 166)—a view which can be traced to his theory, as expressed in *Ideology and Utopia*, that an "objective perspective" can be attained by a socially unattached intellectual. While it is probably true that both major parties usually adopt the same platform and policies in a democracy, there is surely no ground for

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assuming *a priori* that a particular economic policy must be adopted in order to enable democracy to work; and Mannheim's disinterested planner is as much of a challenge to democratic theory as Plato's philosopher-kings.

Yet, Mannheim's analysis of modern capitalism is provocative, his rejection of fascism and communism is eloquently valid, and his plea for democratic socialism is in many ways rewarding. *Freedom, Power, and Democratic Planning* deserves to be read and discussed by all those interested in the fate of modern society.

BERNARD E. BROWN

CITY COLLEGE OF NEW YORK

*Imperialism and Social Classes.* By JOSEPH A. SCHUMPETER. Translated by Heinz Norden. Edited with an introduction by Paul M. Sweezy. New York, Augustus M. Kelley, Inc., 1951.—xxv, 224 pp. $3.00.

In a country where many economists consider themselves demeaned when they even admit that they know any sociology, it is refreshing to have these two essays from the pen of an economist who not only knew sociology but contributed to it. Schumpeter's sociological essays, one on imperialism and the other on social classes, are here translated into English for the first time. They were published in German in 1919 and 1926, respectively, but have been little read and less referred to by American scholars. The appearance of this volume testifies to the growing interest in both subjects in this country.

Most writers on imperialism may be classified into two groups: (1) the economic interpretationists, including J. A. Hobson and Lenin, who thought that the cause of imperialism was the economic system (capitalism); and (2) those who thought that imperialism was not due to economic causes at all. Schumpeter does not belong to either group. He professes to be an economic-interpretationist, but he specifically absolves the capitalists from any connection with imperialism, except so far as they have been seduced away from their "natural" system of competition. The social class which is really responsible for imperialism is, in his view, the landed interest; and he cites as examples a great variety of historical imperialisms from the ancient Assyrians to the modern Europeans.

The same sweep of historical knowledge that we find in the essay on imperialism characterizes also the essay on social classes. Schumpeter breaks with the time-honored European view that social classes originated out of war or conflict; he emphasizes the fluidity of classes,

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the rapidity with which their personal and familial composition changes. He even leans to the view that the families most fitted to perform the functions of a given class are those which will be found within it at any given time. Class struggles and revolutions would from this point of view be purposeless, since a class can make a revolution only when it already has the power (p. 194, note).

It is no derogation of the deservedly high position of the late author to say that his views in these two fields have not been widely accepted in Germany, where they have been so long known. The essay on imperialism is loosely reasoned and superficial, and does not deserve the praise that certain American scholars have lavished on it. As Dr. Sweezy points out in his introduction, it contains almost as many theories of imperialism as it has "imperialisms". The essay on social classes, by its author's explicit admission, does not deal with the problem of *entrenchment,* although this is the nub of the most important questions connected with social stratification (pp. 210-11 and note).

Some interest attaches to the question why Schumpeter never mentioned these sociological essays in his economics classes at Harvard. Partly, no doubt, this omission can be attributed to the author's modesty or to a feeling that the material was irrelevant. With reference to the essay on imperialism, to which this last consideration would apply certainly in lesser degree than to the other, there is the additional possibility that Schumpeter may have changed his mind. In a footnote in volume 2 of his *Business Cycles* (1939) and in correspondence with Dr. E. M. Winslow to which the latter refers in his book *The Pattern of Imperialism* (1948), Schumpeter abandoned his earlier economic explanation of imperialism.

Dr. Sweezy thinks that if Schumpeter had elaborated his new position, he would have come out with a more distinguished production than that of Dr. Karl Renner to which he professed adherence. With this view we can certainly agree. However, it is important to note that Renner's concept of *Volksimperialismus* cannot be reconciled with Schumpeter's emphasis on the landed interest as the moving force in modern imperialism. Thus it does not seem proper or consistent to work on the assumption that Schumpeter's views throughout his life constitute an integrated whole, as Dr. Sweezy suggests they do.

The translation reads well, and Dr. Sweezy has checked it with the original for accuracy in transmitting the original meaning. Obviously, not all who read these essays will agree with them; but no one can fail to be impressed by the originality and cogency of the ideas.

HORACE B. DAVIS

UNIVERSITY OF KANSAS CITY

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*Scottish Democracy, 1815-1840: The Social and Intellectual Background.* By LAURANCE J. SAUNDERS. Edinburgh and London, Oliver and Boyd, 1950.—vi, 444 pp. 21/-.

The simple title covers a complex enterprise, or, better, the first half of an ambitiously comprehensive, intricate and novel historical reconstruction. In his attempt to organize the manifold responses of Scottish society to "high farming" and industrialization during and after the Napoleonic wars, Professor Saunders has used the myth of democracy as a central idea. He distinguishes the two general qualities attributed to it as of this time—open opportunity and social mobility in opposition to privilege and fixity, and individual self-development irrespective of accidental social or material status. In this first volume he uses five processes as criteria for the democratic assumptions—rural change, urban and industrial expansion, creation of an urban way of living (in the face of epidemics and unemployment), the peculiar rôle assigned to education, and the provision and quality of the intellectual and moral leadership.

Assuming that his acknowledged omissions will be remedied in a succeeding volume, this is general history of the sort that Halévy practiced on nineteenth-century England, although organized around a somewhat different idea and pursued in more intimate detail. Naturally, Halévy centered his history in Parliament. Perhaps equally naturally, that procedure would not have been fruitful for Scotland. What seems to be coming out of such recent historical studies of Western societies under industrialism is a resumed expansion of knowledge and ideas after the long period of digesting Marx. In the cases of Great Britain and, *pace* the Civil War, of the United States, the peaceful modification of old and invention of new *political* institutions, local and central, emerge as the characteristic and broadly approved techniques of societies wracked by internal and external economic change. Gradualism is quite as much a historical fact as revolution. Studies like this make it intelligible.

They demand a great deal of time and effort for quite short periods. The mere extent and variety of Saunders' research are impressive, and the process of giving it depth has obviously exacted lengthy reëxamination and recalculation of the evidence in terms both of its often quite subtle differentiation and of its equally subtle relationships to the democratic myth. Finally, as anyone knows who has attempted general history, there is the almost insoluble problem of an expository framework which will serve at once to cope with the passage of time and with a multitude of topical analyses. Only a supreme artist can blend them successfully. Saunders falls back on some twenty-three

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separate topics, each with sub-topics, and pursued through all or part of the generation after Waterloo. This furnishes excellent expository control over great variety. It is to be hoped that a substantial part of his second volume will be given to the difficult business of justifying from the topical analyses general conclusions as to the historical development in terms of the central hypothesis. In this volume he seldom goes beyond the tentative or partial.

Suggestive and original as the book is in the general context of social and political responses to industrialism, its immediate contribution is to Scottish history, on which it throws critical light in ways far too numerous to mention. Analogies are dangerous because of deep and powerful differences of tradition and environment, even on so small a scale as Scotland. Saunders manages to demonstrate the differences and yet bring out the analogies. Equally circumspect students of the world phenomenon could use his book safely for their purposes. They might also learn a good deal from an approach that might be described as a kind of progress from examination of economic and social change to political economy (on a local scale), and beyond and below that to the more embracing realm of what used to be called moral philosophy, here historically interpreted.

The writing is lucid and deliberative, but economical in summations, conveying an impression of reasonable and proper authority. The book is a little parochial in its lack of a map and in some of its allusiveness. The index is curiously spotty and inconsistent in its standards. Until the study is complete, the general achievement cannot fairly be estimated. It does, however, seem legitimate to express the hope that politics will be more specifically examined, both in terms of the United Kingdom and especially in the operational balance of forces in local institutions. There are many references to politics and quasi politics, but so far, in terms of the book's organizing principle, they are suggestive or tantalizing rather than systematic or satisfying.

J. B. Brebner

Columbia University

*The Social Philosophy of Josiah Royce.* Edited by Stuart Gerry Brown. Syracuse, The Syracuse University Press, 1950.—viii, 220 pp. $3.00.

This collection of longer selections attempts to rescue Royce's social ethics and theory of community from the general shipwreck of technical idealism which is characteristic of twentieth-century Ameri-

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can thought. Royce's thought on these and other questions moved forward with relentless precision. He was a masterly dialectician who convinced a generation of students at Harvard that there was a basis for certainty in the very nature of doubt and a ground for truth in our ascriptions of error. "To surrender to him", wrote Ralph Barton Perry, one of Royce's students and younger colleagues, "was as easy and as unexciting as to be a fundamentalist in Arkansas." Yet Perry and his master, William James, did not take this easy road, and twentieth-century American thought has chosen to follow with them the more tortuous and difficult paths of realism, empiricism, naturalism and humanism. Today, thirty-five years after Royce's death, the world situation is such that many people wonder what, after all, is truth and where certainty can be found.

Mr. Brown, who is professor of citizenship and American culture in the Maxwell School of Citizenship of Syracuse University, professes to find in Royce's social philosophy a form of thought which "has a special value for Americans in these days since it suggests a practical way of meeting the collectivist drift of modern society, appropriating its best values and modifying and controlling it through the American tradition of individualism" (p. 28). One may be allowed to question the practicality of Royce's proposal to reduce the possibility of war by a gigantic system of international insurance, described in the "Address on War and Insurance", here reprinted (pp. 181-211) from *War and Insurance* (1914), and in "The Possibility of International Insurance", reprinted (pp. 212-220) from *The Hope of the Great Community* (1916), even though Royce himself assured us that he had checked its technical aspects with the lecturers on fire and life insurance in Harvard's Graduate School of Business Administration. Furthermore, Royce's *Philosophy of Loyalty*, five chapters of which are included by Mr. Brown, making up half of the writings by Royce in this volume, emerges with the extremely formalistic imperative "Be loyal to loyalty"—since loyalty itself is the only cause on whose worthiness all loyal men would agree. That in their "loyalty to loyalty" men might manifest their loyalty by devotion to unworthy causes is an empirical matter, to be mentioned and then brushed aside by concentration on the more formal, more abstract and more vacuous general statement. Royce's own regard for loyalty as such led him to express his admiration for the Bushido loyalty of the Japanese samurai as "that active devotion of the individual to the whole nation . . . which made the rapid and wonderful transformation of Japan possible" (p. 97). Are this loyalty and this individualism the sort that

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Mr. Brown would have us draw from the renewed study of Royce? In fact Royce's account of the morality of loyalty is a portrait of the sincere follower of a "party-line", rather than of the individual thinking through national and international problems for himself and contributing his mite to the common problem of decision-making.

In rejecting Mr. Brown's assertion of Royce's contemporary political relevance for these and similar reasons, I have no intention of denying all value to the Roycean system. It is still excellent discipline for younger students of philosophy; when they have fought their way past Royce they will have developed far finer critical tools. It is still good reading in the formal manner of its era. There is, indeed, virtue in Royce's philosophy, but it gives us no usable answers in the current muddle.

JOSEPH L. BLAU

COLUMBIA UNIVERSITY

*Peace Can Be Won.* By PAUL G. HOFFMAN. Garden City, Doubleday & Company, Inc., 1951.—93 pp. $1.00.

Paul G. Hoffman, recently head of the Economic Cooperation Administration, believes that peace is a desirable and possible objective of American foreign policy. He is convinced, however, that such an objective will be achieved only if America accepts the obligations which world leadership has thrust upon her and is willing "to strive and sweat and sacrifice enough to wage the peace" in the present and future, as she has been willing in the past to wage war. Mr. Hoffman has written a readable pamphlet which attempts to arouse the American people to a realization of their responsibility and to present them with at least the outline of a program of action. To Mr. Hoffman it is axiomatic that the contemporary political and economic chaos was deliberately contrived by the U.S.S.R. The Kremlin is waging a new kind of war upon the West in which armed force is only "the most visible and spectacular zone of combat" (p. 14); Stalin regards economic sabotage, political subversion and psychological terror as more potent weapons than the Red Army.

To be successful in containing the Communist assault and in launching her own counterattack, America must also make use of all four weapons; she must meet the Soviets on the military, economic, political and psychological or propagandistic fronts simultaneously. Mr. Hoffman rejects the school of thought which argues that America

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can make a deal with Stalin; equally he regards as misguided that school which contends that a " preventative war " is the only course open to the United States. Instead he advocates a policy which will, short of war, wrest " the initiative from the U.S.S.R. . . . by eradicating the social and political and economic conditions on which communism thrives " (p. 23). Mr. Hoffman's program includes a permanently enlarged American military establishment, for it is necessary to dissuade the Kremlin from further military adventures by the threat of retaliation. But the heart of his plan is economic. In his view " to-day's contest between freedom and despotism " is primarily one " between the American assembly line and the Communist party line " (p. 46).

*Peace Can Be Won* presents a brief but cogent survey of the accomplishments of ECA. Mr. Hoffman admits that ECA experienced many disappointments but believes that it proved the " validity of its basic assumptions: Deeds which lay the basis for physical well-being provide the hope and faith which permit free people to make rational judgments. Economic regeneration leads to regeneration of morale " (p. 55). Yet Mr. Hoffman is far from optimistic about the future; he fears that public apathy and political dissension may result in the scrapping of ECA. Therefore, much of *Peace Can Be Won* is a concrete program which he believes to be politically possible and economically feasible. In place of ECA he would establish an Overseas Economic Administration, functioning as a distinct department of government, with an administrator enjoying full cabinet status. This Administration, which would require some $2,300,000,000 a year for an indefinite period, should absorb all existing foreign economic aid programs, including Point Four. Mr. Hoffman also wants an Overseas Information Agency which would be a separate government department whose head would have cabinet rank.

With these weapons, plus a powerful military force spearheading the NATO, Mr. Hoffman believes that the United States can successfully counterattack the U.S.S.R. on all fronts. Mr. Hoffman presents no new information in *Peace Can Be Won* and students may question some of the generalizations, but he writes with a conviction that commands attention.

GEORGE T. MATTHEWS

COLUMBIA UNIVERSITY

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*Taxation in Medieval England.* By SYDNEY KNOX MITCHELL. Edited by SIDNEY PAINTER. New Haven, Yale University Press; London, Geoffrey Cumberlege, Oxford University Press, 1951.—v, 413 pp. $5.00.

This important volume continues the researches in taxation which established Professor Mitchell's reputation and represented his life's work. It extends those researches to incorporate the general development of taxation from the Conquest to the fourteenth century, including two chapters on central and local organization, two on assessment and consent, and four on royal tallage. All these chapters contain an immense amount of valuable material, much of which has been drawn from unpublished sources.

The result is a massive work which will be a repository of sound information for many years to come. In addition, even though Professor Mitchell has been cautious, perhaps overcautious, in generalization, it contains conclusions which are so important that they must be set forth at considerable length.

The system of taxation by consent which grew up in England in the thirteenth century, Professor Mitchell believes, was the result of an interaction between the king's needs, the development of a money economy, and the objection of the king's subjects to taxation over and above the traditional feudal aids. Few historians would question the importance of these three factors. What gives them a special significance in Professor Mitchell's work, however, is the extent to which their operation excluded other factors of a less tangible kind.

The force of traditions and ideals, for example, plays little part in Professor Mitchell's explanation of the rise of taxation by consent. The principle of consent to taxation was not effective in feudal tradition. The magnates had no clear right to refuse even "gracious" aids when these were demanded to meet exceptional emergencies. Feudal custom may well have given rise to taxation, not by consent but by royal prerogative, to meet the king's extraordinary needs.

Such a result was averted by a struggle, not for principles, but for self-interest. The stage was set for this struggle, at the turn of the twelfth century, by the superseding of the tax on land by a tax on movables. The new tax involved far-reaching changes in the incidence and political repercussions of royal impositions; but it was adopted by the king simply because it was the most fruitful source of revenue; and it was opposed only because the magnates feared that its frequency would establish it as a normal, and not an exceptional, imposition. The barons were enabled to establish a true notion of con-

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sent, after 1237, by repeated refusals, and by the growth, under royal pressure, of a unified *universitas Anglie;* but, according to Professor Mitchell, the rise of such a notion was the consequence, in the main, of habit and the " force of necessity "; it had little to do with traditions and ideas.

The same factors account for the presence of representatives of towns at great councils. Burgesses were asked to consent to the new taxes on movables, instead of being subjected to royal tallage, purely as a matter of expediency. The aid was more fruitful than the tallage, and the example of the magnates at a great council might serve as an inducement to " representatives " of the demesne.

In the same way, Professor Mitchell finds no significant correlation between the decline of arbitrary tallage in the thirteenth century and the rising importance of a principle of consent. The royal tallage was never denied to the king, he believes, even in the *De tallagio non concedendo* or, even more remarkable, in the statute of 1340, when Edward III promised not to " sustain any charge " except by common assent in parliament. Opposition to the tallage arose in 1304 and 1312 simply because it was being levied on revenue and movables. The king renounced it, in the end, only because the aid on movables was more profitable.

It is clear that Professor Mitchell has made a significant contribution to the history of taxation in medieval England; but it is not so clear that he has fully evaluated all the factors in the growth of taxation by consent. Historians may question his handling of some of the evidence; and his general conclusions are not easy to reconcile with the evidence relative to consent in other aspects of thirteenth-century political life. He does not discuss (indeed, he does not refer to) some recent writing, such as that of Miss M. V. Clarke, Gaines Post, or Sir Maurice Powicke. But his scholarship is, as always, extremely impressive; and all historians will have to give earnest attention to his views.

His work has, as we should expect, been admirably edited by Professor Painter. Some of the inevitable weakness of a book printed posthumously appears in occasional obscurity and repetition; but Professor Painter decided, probably wisely, to lavish a wealth of patience and scholarship on the drudgery of footnotes and accuracy, but to leave the text of the volume as far as possible as it was when it left Professor Mitchell's hands. In the strength and weakness of the writing, the work is, therefore, Professor Mitchell's, a memorial to a lifetime devoted to arduous and fruitful research.

B. WILKINSON

UNIVERSITY OF TORONTO

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# BOOK NOTES

Dean E. McHenry's *The Third Force in Canada* (Berkeley and Los Angeles, University of California Press, 1950; vi, 351 pp. $3.50) is a detailed study of Canada's socialist party, the Cooperative Commonwealth Federation, popularly called the CCF. The book includes chapters bearing the following titles: "Looking Backwards", "National Party Organization", "Provincial Organization", "Friends and Foes of the CCF", "Elections and Prospects", "The CCF in Parliament", "Saskatchewan under CCF Rule", "Party Policy", and "Looking Forward". Many of the data were collected first-hand, but extensive use was also made of organizational publications, government documents, books and periodicals. An excellent feature of the work is its useful comparisons of CCF organization and practice with those of the Labor party of the United Kingdom. Footnotes, a bibliography, and an index are included. Here, in short, is a scholarly study of an exceedingly significant political and social movement. What of the movement itself? What success has it achieved? What of its future? On the matter of achievements, Professor McHenry is quite enthusiastic. "In its seventeen years of existence, the CCF", he asserts, "has won the most support and achieved the greatest success of any avowedly socialist party in the history of North America" (p. 304). Certainly that is a broad assertion. It is, however, fully substantiated by the record. As critics of the Liberal Administration at Ottawa, as the government of Saskatchewan, and as the Official Opposition in several provinces, the CCF leaders have won the acclaim of their friends and the grudging admiration of their political opponents. Does this mean that the CCF is likely to achieve national power within the next five or ten years? On this question Professor McHenry does not hazard a definite prediction, and the reviewer can do no better than to follow his wise example. He cannot, however, forgo the opportunity of observing that he is less optimistic than Professor McHenry regarding the CCF's electoral prospects. His doubts regarding rapid CCF growth are based on the following considerations: the party's poor showing in the 1949 electoral contests; its inability to make much headway in Quebec and in the Maritimes; its failure to develop effective campaigning techniques; its association (unjustly) in the minds of many Canadian voters with communism and (largely unjustly) with pacificism; the popularity of the Liberal



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social welfare program and the skill of the Liberals in appropriating for themselves CCF projects and proposals; the rigidity of CCF doctrine and the party's inability or unwillingness to adopt a more inclusive type of program—a program designed to appeal to most of the economic, social, religious, and sectional groups and interests found within the country. But regardless of whether or not it ever attains national power, the CCF, as Professor McHenry conclusively demonstrates, has already made an extremely important imprint upon Canadian life and institutions.—WILLIAM R. WILLOUGHBY, The St. Lawrence University.

*Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction,* by C. Vann Woodward (Boston, Little, Brown and Company, 1951; xvi, 263 pp. $4.00), is a major reinterpretation, which no historian may henceforth overlook, of the bargain that brought reconstruction formally to an end. If this were not meritorious enough it is also a detailed case study of political and economic jobbery and of the degeneration of wartime idealism into peacetime cynicism. Mr. Woodward, with an immense array of convincing evidence, offers the thesis that the disputed election of 1876 was not settled, as our tradition and textbooks have it, at the Wormley Conference in Washington where the South agreed to give Rutherford B. Hayes the presidency over Samuel J. Tilden in return for the restoration of home rule. He comes to his iconoclastic conclusion because, in fact, the president's ability to use troops had already been curtailed and Redeemer governments had already replaced Carpetbag régimes in Louisiana and South Carolina. Besides, his research shows that far more powerful forces had been operating antecedently. Chief of these was the reëmerged Southern Whiggery that made men of property reach out naturally for the Republican party in the North. These men sought a share of government largesse, in the form of subsidies, for their section and themselves. "The last foothold of the political philosophy of the Great Barbecue", says Mr. Woodward, "was the Redeemed South"; and this, he shows, lay in the background of the Compromise of 1877. The long projected Texas and Pacific Railroad would become a reality, and other "internal improvements of a national character"—although the T & P was the outstanding one—would restore the South, or, better, create the New South. In return the contested electoral votes would go to the Republican governor of Ohio. General Henry Boynton, Massachusetts-born newspaperman and reformer, William Henry Smith of the Western Associated Press and Hayes's closest friend, and Andrew

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Kellar, former Douglas Democrat and Confederate soldier, were the principal engineers of this remarkable deal. In addition to ditching Tilden, "the purely political part of the plan" called for letting the Republicans organize the House, restoring the Southern states to conservative pro-administration leadership, and putting a Southerner or two into the cabinet. For this mess of pottage the Redeemers gave themselves up to the party of the "bloody shirt" and Northerners, in turn, left the freedmen to their tragic fate. Within a year, though, this Whiggish arrangement was ruptured in a number of important respects and eventually agrarian discontent was to send the South with the West and open a new chapter in the history of the nation, on which, incidentally, Mr. Woodward is now writing. No one can truthfully deny that the Compromise of 1877 ranks with the great Clay efforts of the ante-bellum period. If we now know its magnitude and ramifications it is because we are deeply indebted to Mr. Woodward whose sound scholarship reveals a Job's patience and a Pinkerton's instincts.—Henry F. Graff, Columbia University.

The influence of Bernard M. Baruch could hardly be overestimated by even his extravagant admirers; during the past four decades he has put his stamp on matters ranging from the manufacture of synthetic rubber to the international control of atomic energy, from the details of public administration to the shape of national policy. It is for this reason that the legend of Baruch as the detached and autonomous "elder statesman"—a legend which has been forty years in the growing and a full ten in the bloom—is cause for concern. In its newest form—W. L. White's *Bernard Baruch: Portrait of a Citizen* (New York, Harcourt, Brace and Company, 1950; 158 pp. $2.00)—the legend rises to a new peak of hyperbole, to which it is assisted by an anti-New Deal fervor. In a quick succession of scenes, the author presents Baruch as stock-market operator, performing a "public service" by reducing "inflated absurdities" on the market; Baruch as head of the War Industries Board, girding the nation for war and scourging profiteers; Baruch as economist, upholding the law of supply and demand ("which always works") against New Deal theorists who would tamper with it; Baruch as prophet, urging preparedness upon a country softened by pacifist ideals; finally, Baruch as Cincinnatus, called back to service in wartime to correct the ineptitudes of his government. When it is admitted that the "elder statesman" has had his detractors—such as the Frankfurterites who sent him to his park-bench exile in the mid-thirties—it is not allowed that they have ever diminished the luster of their victim. Those who

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believe that the legend gives Baruch his due may take to Mr. White's book, though it should be pointed out that most of the material can be found in Carter Field's more thorough and more moderate version published in 1944. On the other hand, there will be those who hold that the legend, in so far as it associates Baruch with anti-Roosevelt commonplaces and ignores the ideological component in the claim of detachment, does not pay the man the critical respect he deserves. There will be those, therefore, who prefer to await the study that answers questions on the order of the following: What is and has been the source of Baruch's political power? What part did he play in the formulation of the principles of NIRA and what part did he play in the defeat of Roosevelt's court program? What are the intellectual roots and meaning of his politico-economic credo, which mixes monetary fundamentalism, thoroughgoing state controls in wartime, and self-regulative associations for industrialists and for farmers? There will be those, in short, who hope that the legend-maker has had his day, and that soon the critical scholar will have his say.—WALTER METZGER, Columbia College.

Twenty years ago Carl Becker voiced the suspicion that American historians were rarely familiar any more with the writings of Ranke. If his suspicion was in large measure correct in 1931, it has probably become even more correct today. Any book, therefore, that may contribute to a rebirth of interest in Ranke should be welcomed—the more so when it is as able a study as Theodore H. Von Laue's *Leopold Ranke: The Formative Years* (Princeton, Princeton University Press, 1950; ix, 230 pp. $4.00). A brief and well-organized volume, it is concerned chiefly with a feature of Ranke's career that has often been slighted: his rôle as an official political publicist. Indeed, the seven chapters of which the volume consists can be viewed mainly as preparation for its useful appendix, which makes available in a skillful English translation Ranke's *Politisches Gespräch* and his *Die grossen Mächte*. These important essays were written in the 1830's, when Ranke, who had accepted the invitation of the Prussian Minister of Foreign Affairs to serve as editor of the *Historisch-Politische Zeitschrift*, assumed responsibility for explaining Prussian policies to Prussians and to other Germans. Professor Von Laue is least convincing in his analysis when he tries to employ Ranke's ideas as an "issue for the present." He is at his best when he remembers that Ranke's "frame of reference was the Europe of the Restoration, the Germany of idealism and romanticism, the Prussia of Frederick William III, and the western world of Christianity." In view of the competence

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of the present study, it is to be hoped that Professor Von Laue will soon do something about satisfying the need for a good biography of Ranke—a need which he points out in the excellent bibliographical essay that concludes his volume.—HERMAN AUSUBEL, Columbia University.

The late Gaillard T. Lapsley wrote only one book, but he made significant contributions to historical scholarship, especially in the field of medieval English parliamentary institutions, and exerted important influences upon students both by his teaching at Cambridge and by articles published in learned journals. The more outstanding of these latter have been collected and published under the editorship of two of his former colleagues at Cambridge, Helen Cam and Geoffrey Barraclough, in a volume entitled *Crown, Community and Parliament in the Later Middle Ages: Studies in English Constitutional History* (Oxford, Basil Blackwell, 1951; xv, 240 pp. 25*s*.), which appears as Volume VI of Studies in Mediaeval History, a series edited by Mr. Barraclough. Lapsley never coördinated and synthesized his views on English constitutional history, but his editors believe that the essays here assembled possess coherence and they have aimed "to make available in one volume those articles which, both in their content and their interdependence, best illustrate his personal approach to constitutional history and the nature of his contribution to the advance of its study." The nine articles here reproduced with minor revisions, including the bringing up to date of bibliographical references in the footnotes, comprise most of the remarkable survey of recent advances in English constitutional history, originally published in the *Cambridge Historical Journal* in 1936, in which, as the editors justly remark, the author has skillfully used the framework of a bibliography to sketch in outline his views of the theory of the medieval English constitution, the nature of its organs, and their relation to each other. Included also are the brilliantly critical study of the Statute of York, and—what is probably the best-known of all Lapsley's articles—"The Parliamentary Title of Henry IV". In performing a labor of love and erecting a worthy monument to the memory of an old friend and colleague, the editors have at the same time rendered a distinct service to historical scholarship.—R. L. SCHUYLER, Columbia University.

The *Memoirs of King Abdullah of Transjordan*, edited by Philip Graves and translated from Arabic by G. Khuri (New York, Philosophical Library, 1950; 278 pp. $3.75), is the life story of the late Abdullah Ibn Ul-Husein, from his early youth and education in Con-

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stantinople to his negotiations with Turk and Englishman on his father's behalf and his final elevation to his majestic rank in Amman. It tells us little, however, that we do not already know about the Arab revolt against the Porte. Unfortunately the story stops short of recent events and very little is uncovered regarding Abdullah's sympathies for, and antipathies against, the Jews in Western Palestine. What we are given is little more than a court memoir, written graciously, though occasionally obscurely, for the benefit of friends, kinsmen, fellow-tribesmen and the royal clique. Nevertheless, one can read between the lines the King's frustration at receiving, for his contribution to the revolt begun by the holy family of Husein in the Hejaz, but a minor throne when the plums of Araby were so rich and so plentiful. One gathers that Abdullah was no mean negotiator, that he knew what he wanted, and, if his report (and therefore his memory) is to be trusted, that he was fearless and outspoken in his demands. He was bitter toward Lawrence and his escapades on the Red Sea littoral, and obviously could not forget that this unique Englishman chose his half-brother Faisal rather than himself for leadership of the desert tribes. Unfortunately, so much is glossed over regarding those days as to give the account little historical value, not only for the study of the Arab break-away from the Turkish Empire, but also for the circumstances leading to the Wahabi eviction of King Husein from Mecca and the establishment of the Kingdom of Ibn Saud. The part played by Britain in that internal Arab war was not an honorable one—these were the days of despotic British residents and agents in the Middle East, who made up in bags of gold what they lacked in argument—and Abdullah, without acrimony but nevertheless unsparingly, reproves the Power with which he was later so closely allied. Here is a portrait of a man, written by himself, who had surrendered his impatience but not his ambitions. That he still hoped one day to reign over a Greater Syria is obvious from these pages. His Arabia knows no frontiers but those laid down by the limits of a camel's endurance. He was therefore waiting and watching; and it is some credit to Abdullah that he remained a monarch of significance in his vast and shadowy hinterland. The narrative is ably edited by Philip Graves, who for so long represented *The Times* of London in the Middle East. Mr. Graves applies his great erudition to elucidating for us some of the more obscure references and apparent inaccuracies in the story, and we are also grateful for his services as arbiter in the cause of impartiality when the King's oriental prejudices get the better of him.—RALPH R. REUTER, New York, N. Y.

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Professor Everett S. Brown's *Manual of Government Publications: United States and Foreign* (New York, Appleton-Century-Crofts, Inc., 1950; ix, 121 pp. $2.00) is a valuable addition to the Century Political Science Series. It seeks to make more easily available to both students and laymen a wealth of useful source material that beginners in research as well as more experienced research men often have difficulty in finding. In the words of Professor Brown, the purpose of his *Manual* is "to remove what one harassed person feelingly described as 'the fear of government publications.'" Nor is there any doubt that the volume achieves its objective. There is reason, however, to hope that the demand for the *Manual* will prove to be so considerable that Professor Brown will feel compelled to bring out a revised edition—one in which he will expand very considerably the sections devoted to the publications of governments other than the American and the British.—Herman Ausubel, Columbia University.

Dr. Héctor Parra Márquez, a member of the Supreme Court of Venezuela, chose the subject of extradition for his dissertation upon entry into the Academy of Political and Social Science of Venezuela. This study has now appeared under the title, *La Extradición a la Luz de la Legislación Venezolana* (Caracas, Imprenta Nacional, 1950; 117 pp). Dr. Parra Márquez considers the problems and policies not only regarding extradition, but also with reference to the right of asylum, either in diplomatic residences or in national territory. He sets forth the general principles, which have been developed; examines numerous specific cases of extradition and asylum, including particularly the case of Haya de la Torre between Colombia and Peru; and details the legislation and practices, both judicial and executive, of Venezuela. The discussion serves to reveal clearly the policies and actions of Venezuela with reference to this important phase of international relations. The appendix comprises the Venezuelan legislation on the subject, the pertinent clauses of the Code of Private International Law (Bustamante Code), a list of the treaties of Venezuela regarding extradition, an index of the decisions of the *Corte Federal y de Casación* in extradition cases, and a bibliography. The text of the reply to Dr. Parra Márquez by Dr. Angel Francisco Brice is also included. This small volume is an evidence of the outstanding character of the work of the Venezuelan Academy.—Roscoe R. Hill, Washington, D. C.

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